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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1958

No. 35

LLOYD BARENBLATT, PETITIONER,

vs.

UNITED STATES OF AMERICA.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 15, 1958
CERTIORARI GRANTED APRIL 14, 1958

SUPREME COURT OF THE UNITED STATES

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[fol. C] [Caption omitted]

[fol. D] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

(Grand Jury Impaneled on September 30, 1954, and Sworn in on October 5, 1954)

Criminal No. 1154-54

Grand Jury Original (2 U.S.C. 192)

UNITED STATES OF AMERICA,

v.

LLOYD BARENBLATT.

INDICTMENT—Filed November 22, 1954

The Grand Jury charges:

On June 28, 1954, in the District of Columbia, a subcommittee of the Committee on Un-American Activities of the House of Representatives was conducting hearings, pursuant to Public Law 601, Section 121, 79th Congress, 2d Session, (60 Stat. 828), and to H. Res. 5, 83d Congress.

Defendant, Lloyd Barenblatt, appeared as a witness before that subcommittee, at the place and on the date above stated, and was asked questions which were pertinent to the question then under inquiry. Then and there the defendant unlawfully refused to answer those pertinent questions. The allegations of this introduction are adopted and incorporated into the counts of this indictment which follow, each of which counts will in addition merely describe the question which was asked of the defendant and which he refused to answer.

COUNT ONE

Are you now a member of the Communist Party?

COUNT TWO

Have you ever been a member of the Communist Party?

COUNT THREE

Now, you have said that you knew Francis Crowley. Did you know Francis Crowley as a member of the Communist Party?

[fol. E] COUNT FOUR

Were you ever a member of the Haldane Club of the Communist Party while at the University of Michigan?

COUNT FIVE

Were you a member while a student of the University of Michigan Council of Arts, Sciences, and Professions?

/s/ Leo A. Rover, United States Attorney in and for the District of Columbia.

A True Bill: /s/ Wilson T. M. Beale, Foreman.

[fol. F] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Title omitted]

PLEA OF DEFENDANT—Filed December 6, 1954

On this 3rd day of December, 1954, the defendant Lloyd Barenblatt, appearing in proper person and by his attorney Joseph A. Fanelli, being arraigned in open Court upon the indictment, the substance of the charge being stated to him, pleads Not Guilty thereto.

The defendant is committed to the District jail.

By direction of

Bolitha J. Laws, Presiding Judge, Crimmal Court #.....Assign.

Harry M. Hull, Clerk, by /s/ John R. Hess, Deputy Clerk.

Present: United States Attorney, by Al Stevas, Assistant United States Attorney.

Powell, Official Reporter.

[fol. H] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Title omitted]

MOTION TO DISMISS—Filed January 7, 1955

The defendant moves that the Indictment be dismissed on the following grounds:

1. The Indictment does not state facts sufficient to constitute an offense against the United States of America.

2. The Indictment recites that a subcommittee of the Committee on Un-American Activities was conducting hearings. The Indictment is defective in that a refusal to answer a question before a subcommittee of a committee is not made a crime by Title 2, Section 192, United States Code. *United States* v. *Resnick*, 299 U. S. 207; *Todd* v. *United States*, 158 U. S. 278; *United States* v. *Clark*, 1 Gall. 497.

3. The Indictment is invalid under the First Amendment to the United States Constitution and under Rule 7(c) of the Federal Rules of Criminal Procedure because the Statute and Resolutions referred to in the Indictment, but not set forth therein, authorize interference by a Con-

gressional Committee with rights guaranteed by the First Amendment, including specifically those of free speech and free press, and do not contain any limitation upon such authorization adequate to protect the citizen in his rights. [fol. I] *United States* v. *Rumely*, 345 U. S. 41; *Grosjean* v. *American Press Co.*, 297 U. S. 233; *Near* v. *Minnesota*, 283 U. S. 697; *Kilbourn* v. *Thompson*, 103 U. S. 168; *McGrain* v. *Daugherty*, 273 U. S. 135.

4. The Indictment is invalid under the Fifth and Sixth Amendments to the United States Constitution and under Rule 7 (c) of the Federal Rules of Criminal Procedure because of uncertainty and indefiniteness, in that the Statute and Resolutions referred to in the Indictment are vague and indefinite and establish no criteria which will limit or define the authorized investigation and establish no criteria to indicate to the witness what questions asked have legal pertinence to the investigation authorized. *United States* v. *Cruikshank*, 92 U. S. 542; *United States* v. *Hess*, 124 U. S. 483; *The Schooner Hoppet and Cargo* v. *The United States*, 7 Cranch 389; *United States* v. *Carll*, 105 U. S. 611; *Evans* v. *United States*, 153 U. S. 584, *United States* v. *Schneiderman*, 102 F. Supp. 87; *Sutton* v. *United States*, 157 F. 2d 661.

5. The Indictment is defective by reason of its multiplicity and is invalid under the Fifth, Sixth and Eighth Amendments to the Constitution of the United States, in that a single crime has been divided and subdivided into five separate crimes, and that therefore the defendant has been made subject to excess fine and cruel and unusual punishment and deprived of a fair trial. *Bowers* v. *United States*, 202 F. 2d 447; *Mathis* v. *United States*, 200 F. 2d 697; *United States* v. *Harris*, 26 F. Supp. 788.

[fol. J] 6. The Indictment is invalid under the Constitution of the United States and the Amendments thereto in that the defendant is not advised in each of the Counts as to the pertinency of the question stated in each Count and therefore there is an inadequate statement of the nature of the charge against him and the defendant cannot adequately prepare his defense. *Bart* v. *United States*, 203 F. 2d 45; *United States* v. *Kamp*, 102 F. Supp. 757.

7. The Indictment is defective in that the Statute and Resolutions referred to in the Indictment contravene the Constitution of the United States and the Amendments thereto by failing to provide for necessary limitations upon the actions of Congressional committees and sub-committees and authorize unconstitutional invasion of free speech and a free press, and permit inquiry into political beliefs, religious beliefs, personal and private affairs and associational activities. *United States* v. *Rumely,* 345 U. S. 41; *Kilbourn* v. *Thompson;* 103 U. S. 168; *McGrain* v. *Daugherty,* 273 U. S. 135.

8. The Indictment and each Count thereof is invalid under the Constitution of the United States and the Amendments thereto in that the defendant is not advised in each of the Counts, or any of them, of the nature of subject of the inquiry then being conducted by the Permanent Subcommittee on Investigations Of The Committee On Government Operations, and in that there is no statement of fact showing the competency of the so-called Permanent Subcommittee at the time of the investigation.

9. The Indictment is defective in that it fails to contain any statement showing the pertinence of the question [fol. K] contained in each Count of the Indictment and in that such pertinence is left wholly to presumption and conjecture.

10. The Indictment is defective and is invalid under the Constitution of the United States and the Amendments thereto, and particularly, the Fifth Amendment, the Ninth Amendment and the Tenth Amendment, in that the Congress of the United States, both through the statute and Resolutions referred to in the Indictment, has assumed to invade the judicial power, and that the Congress of the United States has through such legislation and rule and through its procedures acting through this legislative committee violated the principles of the Constitution of the United States and the Amendments thereto which separate the Legislative, Executive and Judicial powers, and that under the Resolutions referred to in the Indictment and the practices of the Committee referred to in the Indictment

this defendant has been subject to pains and penalties contrary to the Constitution of the United States and the Amendments comprised within the Bill of Rights thereunder. *United States v. Lovett*, 328 U. S. 303; *Quinn* v. *United States*, 203 F. 2d 20; *Myers* v. *United States*, 272 U. S. 52; *Kilbourn* v. *Thompson*, 103 U. S. 168; *Lichter* v. *United States*, 334 U. S. 742; *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U. S. 579.

11. The Indictment is invalid under the Ninth and Tenth Amendments of the Constitution of the United States in that the Resolutions and Statute referred to in the Indictment are an infringement of the rights reserved to the people and exceed the limitations of power which were conferred by the people of the United States upon the Congress.

[fol. L] 12. The Indictment is invalid in that the Resolutions and Statute referred to therein deprive the defendant of life, liberty and property without due process and without trial by a duly constituted court and that such acts are invalid under Article I, Section 9 of the Constitution of the United States.

13. The Indictment is invalid under the Constitution of the United States and the Bill of Rights in that the legislative inquiry provided by the Statute and Resolutions referred to deny the defendant the right to be represented by counsel, did not inform him or provide for information of any law which he might be charged with violating, did not provide for confrontation by witnesses against the defendant and did not protect the defendant against self-incrimination.

14. The Indictment is invalid under Rule 7 (c) of the Rules of Criminal Procedure which requires a plain, concise and definite statement of the essential facts. There are no facts pleaded or stated in the Indictment with regard to the pertinency of the testimony sought to be elicited which is merely a conclusion of law embodied in conclusory form in the following language of the Indictment.

> "Was asked questions which were pertinent to the question then under inquiry."

The Indictment does not set forth the nature of the inquiry nor the investigation and the defendant was not thereby advised of the nature of the charge against him.

[fol. M] 15. The Indictment is invalid in that the Resolutions and Statute referred to in the Indictment are invalid under the Constitution of the United States and the Amendments thereto and Rule 7 (c) of the Rules of Criminal Procedure, in that they are so vague as to furnish no ascertainable standard of guilt.

16. The Indictment is invalid in that there was a total absence of any legal evidence before the Grand Jury.

Dated: Washington, D. C.,
January 7, 1955.

/s/ Joseph A. Fanelli, Fanelli & Freehill, Attorneys for Defendant, 1701 K Street NW, Washington, D. C.

Served 1/7/55, Leo A. Rover, usd.

[fol. O] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Criminal No. 1154—54

Charge Vio. T-2 Sec. 192 USC

UNITED STATES,

v.

LLOYD BARENBLATT, Defendant.

ORDER DENYING MOTION TO DISMISS—March 2, 1955

On this 2nd day of March, 1955, the motion of defendant to dismiss the indictment taken under advisement by the

Court on the 18th day of February, 1955, is by the Court denied.

By direction of

Henry A. Schweinhaut, Presiding Judge, Criminal Court #2.

Harry M. Hull, Clerk; by /s/ John J. Hanneny, Deputy Clerk.

Present: United States Attorney, by Wm. Hitz, Assistant United States Attorney.
T. O'Neal, Official Reporter.

[fol. P] [File endorsement omitted]

[fol. 1]

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Criminal No. 1154—54

UNITED STATES,

v.

LLOYD BARENBLATT.

Washington, D. C.

Transcript of Proceedings—Wednesday, March 14, 1956

Before Judge Alexander Holtzoff and a jury for trial, at 10:30 a. m. today.

APPEARANCES:

For the United States: Mr. William Hitz.

For the defendant: Mr. Joseph A. Fanelli; Mr. Phillip Wittenberg, of New York, New York.

[fol. 3]

COLLOQUY BETWEEN COURT AND COUNSEL

The Deputy Clerk: The United States v. Lloyd Barenblatt.

Mr. Hitz: The Government is ready.

Mr. Wittenberg: The defendant is ready.

May I approach, sir, for a moment? There are two motions.

The Court: Are you a member of this Bar?

Mr. Wittenberg: I was admitted, sir, for the purposes of this case.

Mr. Fanelli: That was before Judge Schweinhaut, Your Honor. And he was introduced to Your Honor yesterday.

The Court: Very well. Of what bar are you a member?

Mr. Wittenberg: Of the New York Bar, and of the Supreme Court of the United States.

The Court: I think I should apprise you of our practice. We are very glad to have you represent the defendant. Our practice is to require local counsel to be present throughout the trial and to be sufficiently familiar with the case so that if anything happens, then local counsel can carry on.

Mr. Wittenberg: Sir, I recognize the need to me for that.

The Court: Very well.

[fol. 4] Mr. Wittenberg: We will have two motions today, and I wonder if at least one of them should not be made without the presence of the panel here.

The Court: You may come to the bench.

(At the bench:)

ON DEFENDANT'S MOTION TO DISCHARGE JURY PANEL

Mr. Wittenberg: Our first motion will be addressed to the panel.

The Court: What is your motion?

MOTION TO DISCHARGE JURY PANEL AND DENIAL THEREOF

Mr. Wittenberg: The motion is to discharge the panel, because we feel that they, having sat here yesterday while a case involving a much more important person connected with Communism was being tried, and having heard the

type of evidence which they are going to hear in a case of this kind, and having heard Your Honor's comments with respect to it——

The Court: They were not here when I delivered my decision.

Mr. Wittenberg: Oh, I know that, sir.

The Court: The panel had been excused for the day.

Mr. Wittenberg: I remember that, sir. But they were here during the trial.

The Court: During part of the trial.

Mr. Wittenberg: So they did hear certain animadversions in regard to the Communist Conspiracy.

[fol. 5] The Court: I am going to deny the motion.

Mr. Wittenberg: We very respectfully except.

And as to this, I don't mind whether the jury is here.

The Court: I beg your pardon?

DEFENDANT'S MOTION TO DISMISS INDICTMENT

Mr. Wittenberg: I would like to make a motion in regard to the indictment, to dismiss the indictment.

The Court: That comes late. Ordinarily such motions have to be made prior to trial.

Mr. Wittenberg: We did make the motion prior to trial. But since the motion was made and decided over a year ago, there have been at least five more or less important decisions referring to the general language of the indictment and matters that should be contained in it.

The Court: Will you state briefly what your points are, because I am not inclined to hear formal, lengthy argument on a matter of this kind at this late date, especially since a motion to dismiss has been heard and denied.

Mr. Wittenberg: But that was a year ago, sir.

The Court: No, it was not a year ago, was it?

Mr. Wittenberg: I thought it was. I thought it was decided early last year.

The Court: That is quite correct—on the 18th of February.

[fol. 6] Mr. Wittenberg: That is right—just a little more than a year ago.

The Court: What additional points do you want to raise?

Mr. Wittenberg: May I have reference to my own memorandum?

The Court: Yes, indeed. You may bring your notes here.

Mr. Wittenberg: Thank you. I believe your Honor has in that file which is before you the memorandum submitted on the original motion. I don't want to repeat that.

The Court: No. But what additional points do you want to raise?

Mr. Wittenberg: That is what I wanted to do, sir. I wanted to make the references with regard to that memorandum, and connect them.

The Court: Suppose you tell me what the additional matters are that you wish to raise, which you did not raise a year ago.

Mr. Wittenberg: This is raised by the decision, in so far as it may still be in effect, in Watkins v. The United States.

The Court: I will disregard the Watkins case. I think it is my duty to disregard the Watkins case, because the Court of Appeals set aside its opinion and granted a re-[fol. 7] hearing en banc of the situation there, as though the Watkins case had never been decided by the Court of Appeals.

Mr. Wittenberg: And I wish to add to my point 1-C, in my original memorandum, Grossman v. United States.

The Court: But what is the point you raise?

Mr. Wittenberg: The point that is under, sir,—and I was trying to be brief about this—is that to plead pertinency there must first be a statement of a grant of authority made by Congress to the investigating committee, or in this case to the standing committee.

The Court: I am going to hold a mere allegation of pertinency is sufficient under the new rules.

Mr. Wittenberg: And under that may I cite United States v. Corliss Lamont.

The Court: I am going to hold that while there must be an allegation of pertinency, the details leading to the conclusion of pertinency need not be set forth in the indictment.

Mr. Wittenberg: May I, however, just state the authorities upon which I rely?

The Court: No.

Mr. Wittenberg: You prefer not?

The Court: I am familiar with the authorities.

You know, we don't regard these technicalities any more, certainly not since the new rules.

[fol. 8] Mr. Wittenberg: Under D, sir, a point which I made in my prior brief, I merely add an additional argument that the indictment must fall, since the pertinency of the questions constituting the counts is not shown.

The Court: My view is that this is sufficient. As a matter of fact, I have passed upon sufficiency of indictments of this type, and I don't think there is any difference in this from the usual form that is followed in this District and that has been approved time and time again.

Mr. Hitz: That is right.

Mr. Wittenberg: May I call your attention to merely one thing in that indictment, and that is the word "merely," which rather upset me——

That it merely describes the questions, but does not disclose anything further in regard to them.

The Court: That is a matter of evidence. The indictment alleges the defendant unlawfully refused to answer. It would be surplusage to plead those details.

Mr. Wittenberg: And, under the most recent decisions, that the defendant was not made aware of the pertinency of the questions.

The Court: I have ruled on that point.

Mr. Wittenberg: Sir, these are merely subdivisions.

The Court: But it is the same point. I don't hear lengthy argument.

[fol. 9] Mr. Wittenberg: I did not mean to make it lengthy.

The Court: You have stated your point.

Mr. Wittenberg: If Your Honor believes I have, that is sufficient.

May I have an exception to Your Honor's rulings?

The Court: Yes, indeed.

Mr. Wittenberg: Thank you, sir.

The Court: We will proceed to empanel the jury.

(Counsel having returned to trial tables:)

The Court: The Clerk will swear all the jurors for the voir dire examination.

(The prospective jurors were duly sworn for the voir dire examination.)

* * * * * * *

[fol. 28]

* * * * * * *

(Thereupon the jury and the alternate jurors were duly sworn to try the case.)

* * * * * * *

[fol. 42] OFFERS IN EVIDENCE

Mr. Hitz: I would like to have marked for Government Exhibit No. 1 for identification House Resolution No. 2.

The Deputy Clerk: Government Exhibit No. 1 for identification.

(House Resolution No. 2 was marked for identification as Government Exhibit No. 1.)

Mr. Hitz: Which states that Joseph Martin, of Massachusetts, was elected Speaker of the House, and Lyle O. Snader, Clerk of the House.

Next, to be marked Government Exhibit No. 2, House Resolution No. 5.

Mr. Wittenberg: Is that for identification, sir?

Mr. Hitz: For identification.

The Deputy Clerk: Government Exhibit 2 for identification.

(House Resolution No. 5 was marked for identification as Government Exhibit No. 2.)

Mr. Hitz: Government Exhibit 2 is the Rules of the House of Representatives for the Eighty-third Congress. Included in the rules is the authority for the Un-American Activities Committee to act.

The next is Government No. 3, which is a certification of the membership of the Un-American Activities Committee of the House for that session.

[fol. 43] Mr. Wittenberg: Is this for identification, sir?

Mr. Hitz: For identification.

The Deputy Clerk: Government Exhibit 3 for identification.

(The certification of membership of the Un-American Activities Committee was marked for identification as Government Exhibit No. 3.)

Mr. Hitz: Government Exhibit 4 for identification is a certified copy of the report of the House committee citing Mr. Barenblatt for contempt.

The Deputy Clerk: Government Exhibit 4 for identification.

(The certified copy of committee report was marked for identification as Government Exhibit No. 4.)

Mr. Hitz: Government 5 for identification, a certified copy of House Resolution 666, which is the resolution of the House which cited Barenblatt for contempt to the United States Attorney.

The Deputy Clerk: Government Exhibit 5 for identification.

(The certified copy of House Resolution 666 was marked for identification as Government Exhibit No. 5.)

Mr. Hitz: Government 6 for identification is the certification of the Speaker of the House of the contempt to the [fol. 44] United States Attorney.

The Deputy Clerk: Government Exhibit 6 for identification.

(The certification of the Speaker of the House was marked for identification as Government Exhibit No. 6.)

Mr. Hitz: The next exhibit will be one that will bear upon matters that will be addressed to the Court only.

The Court: Very well.

Mr. Hitz: And I think I will now offer in evidence Government Exhibits for identification 1 through 6.

Mr. Wittenberg: No objection.

The Court: They may be admitted.

(Government Exhibits marked for identification Nos. 1 through 6 were accordingly admitted in evidence.)

* * * * * * *

[fol. 46] COLLOQUY BETWEEN COURT AND COUNSEL

The Court: Very well. You may proceed.

Mr. Hitz: I would like to invite the Court's attention to the first paragraph of the indictment, in which there is referred to Public Law 601, section 121, and I would like at this time to cite to the Court the place where that may be found in the Statutes at Large, which is 60 Statutes at Large, 828, and invite the Court's attention to the fact that that is the official Act, the Legislative Reorganization Act of 1946, which gave statutory existence to the Un-American Activities Committee, and that the rule which I have offered in evidence here as Government Exhibit No. 2 is merely a re-enactment of that statute for the purposes of this session.

The Court: Is that statute, by the way, found in the United States Code?

Mr. Hitz: It is not in the United States Code.

The Court: Because the volume of Statutes at Large is very bulky.

Mr. Hitz: Yes, it is; it is a large one. But it is not in the United States Code, Your Honor. It is exactly the same as Government Exhibit No. 2.

I think, Your Honor, under our understanding, we are ready to proceed now with matters addressed to the Court, as distinguished from jury matters.

The Court: Then, under the circumstances, the jury [fol. 47] will retire to the jury room.

Ladies and gentlemen of the jury, you may follow the Marshal and retire to the jury room until your presence is needed.

(The jury having left the courtroom:)

Thereupon DONALD APPELL, called as a witness by counsel for the United States and being first duly sworn, was examined and testified as follows:

The Court: You may proceed.

Mr. Hitz: Your Honor, the next exhibit the Government would like to have marked is Government Exhibit No. 7 for identification.

You will note, Mr. Clerk, it has already been stamped, and it also has the correct number on it——

Which is a government print entitled "Communist Methods of Infiltration (Education)," which are hearings of this committee for February 25, 26 and 27.

The Deputy Clerk: Government Exhibit 7 for identification.

(The Government print entitled "Communist Methods of Infiltration (Education)" was marked for identification as Government Exhibit No. 7.)

[fol. 48] Mr. Wittenberg: If Your Honor please, I object to the introduction.

The Court: It has not been offered in evidence.

Mr. Wittenberg: Oh, I thought he had offered it.

Mr. Hitz: I am merely identifying it, so far.

The Court: Counsel has asked that it be marked for identification.

OFFERS IN EVIDENCE AND COLLOQUY THEREON

Mr. Hitz: I would like to offer the entire document, inasmuch as it is a part of the fund of information that had been received by the committee, under oath, and prior to the testimony of the defendant in the instant hearing. I will particularly refer, however, to certain passages, being approximately ten or twelve pages in number.

The Court: Are you offering it at this time?

Mr. Hitz: I am offering it now.

The Court: Now I will hear you.

Mr. Wittenberg: If Your Honor please, I object to the introduction of this in evidence, on the ground that it appears from its face that this was not a public document; that it was printed for the use of the Committee on Un-American Activities. There is no proof that this document or any part of it was communicated to the defendant, or that by it he was enabled to learn any of the objectives of the committee, or that he would be bound by or that this Court ought to hear testimony from——

[fol. 49] The Court: Nobody is "bound" by any one piece of evidence. That does not affect the admissibility.

Mr. Wittenberg: The admissibility, sir, may depend——

First of all, as to competence, this appears to be a document for the use——

The Court: You have stated your objection. It is not my practice to hear argument on objections to evidence, unless I invite argument.

I assume that this is not offered as proof of the facts contained in the document.

Mr. Hitz: That is correct.

The Court: That it is only offered as proof tending to show what matters and what information was before the committee, as an aid in determining whether the questions propounded to the witness were pertinent to the inquiry.

Is that the purpose?

Mr. Hitz: That is the purpose, whether they be true or untrue.

The Court: I beg your pardon?

Mr. Hitz: Whether they be true or untrue as stated makes no difference.

The Court: Yes.

Mr. Hitz: And we do not assert the truth of what is stated there—merely the fact that they were stated.

[fol. 50] The Court: For the sole purpose, bearing on the issue of pertinency, the Court will overrule the objection and admit the document.

I repeat that it is not admitted as proof of the truth of the statements therein contained, but merely as proof of the information and of the matters that the committee was considering. It is admitted merely on the issue of pertinency of the questions listed in the indictment.

Mr. Wittenberg: May I respectfully except?

(The Government Print heretofore marked for identification as Government Exhibit No. 7 was admitted in evidence.)

The Court: Now do you wish to state what pages you desire to call to the Court's attention?

Mr. Hitz: Yes, Your Honor—pages 1, 2 and 3, to the break in 3.

The Court: Oh, yes.

Mr. Hitz: Your Honor, it may well be that where pas-

sages are not too lengthy, it might make for a more complete written record if they were read to the Court and in the presence of the stenographer; but I will pursue whatever course Your Honor wishes.

The Court: On issues that the Court has to decide, and which are not for the jury, I generally eliminate the reading of exhibits in extenso, because I can read them much faster myself silently than if they were read orally, and [fol. 51] the latter would take too much time.

Mr. Wittenberg: Might I be heard, sir, with respect to the admissibility of these three pages?

The Court: No. I have admitted the whole document. All that counsel is doing is calling the Court's attention to specific parts of the document.

I have admitted the whole document for the limited purpose that I have indicated, and solely for that purpose.

Is there anything else you wish to call to the Court's attention?

Mr. Hitz: Yes, Your Honor. I may say that pages 1, 2 and 3 are being offered to show the statement of the chairman of the committee at the time that the statement was made, with reference to one of the purposes of the hearings involving education.

The Court: Well, just a moment. This transcript in its present posture is not proof of the fact that the chairman made that statement, because this transcript is not authenticated, unless the other side is willing to stipulate that this is an authentic copy.

Mr. Hitz: If they don't stipulate it, I will prove it.

Do you stipulate that this is an accurate portrayal of what did take place, without regard to the truth of what was said?

[fol. 52] Mr. Wittenberg: I don't know that I can make such a stipulation.

Mr. Hitz: I think you can.

Mr. Wittenberg: Because I really don't know whether it is.

The Court: I think you should, Mr. Wittenberg. It is quite customary in this court to waive formal proof of documents, and reserve objections as to relevancy or competency.

Mr. Wittenberg: In view of the fact that this is now being offered piecemeal as to specific pages——

The Court: No; I suggest that you waive formal proof of the accuracy of this entire transcript.

Mr. Wittenberg: I yield to Your Honor in that.

The Court: You will so stipulate?

Mr. Wittenberg: I will.

The Court: It is understood that there is a reservation to you as to any objections as to relevancy or competency.

Mr. Wittenberg: Or whether or not this bears upon the case now before Your Honor, in view of the fact that the material was not transmitted to this defendant.

The Court: That is competency. So you waive formal proof.

Mr. Wittenberg: That is all, sir.

[fol. 53] Mr. Hitz: The next excerpt I would like the Court particularly to notice is pages 30, 31, 32, 33, ending at the top of page 33, after the statement by Mr. Davis as follows:

"No, my activities didn't extend that far."

It is the second line of the testimony.

The Court: I see it.

Mr. Wittenberg: If Your Honor please, while I am perfectly willing to waive formal proof, there are contained on these pages what appear to be quotations.

The Court: I have admitted this document for the purpose that I have indicated.

Mr. Wittenberg: But I make objection now on the ground that there must be proof of these quotations. I can't even waive formal proof with respect to statements not made on the authority of members, but read into the record.

The Court: All you would waive is the proof of the fact that those statements were read into the record—not that they are accurate.

Mr. Wittenberg: Then I waive it, sir.

Mr. Hitz: In connection with the excerpts, pages 30 to 33, Your Honor, I should also like to refer the Court to the commencement of the testimony of that witness, so that we will know where he was called and under what circum-

[fol. 54] stances, and who he is. That will entail also asking

the Court to particularly notice the testimony part of page 3, page 4, page 5, page 6, and the first line of page 7.

Mr. Wittenberg: If Your Honor please, I object to the present offer by the Government.

The Court: This is not an offer. Please don't interrupt. You have objected to the exhibit. I have admitted it and overruled your objection.

All I am asking counsel to do is to assist the Court by pointing out to the Court what particular parts of the exhibit counsel wants the Court to read.

Mr. Wittenberg: But the record will now show, sir, that the Government says these pages prove the facts.

The Court: No, no, no. I don't care if there is any slip of the tongue on the part of counsel. I have indicated the purpose for which I admitted the exhibit.

Mr. Hitz: I don't recall any slip of the tongue on that.

The Court: It doesn't make any difference.

Mr. Hitz: I am not proving the truth of the facts stated. I am proving only that they were stated.

The next portions of this evidence exhibit are pages 95, beginning at the middle of the page, 96, 97, 98, 99, for the first twelve lines of 99, concluding with "Mr. Hicks: Yes." [fol. 55] The next passage I would like the Court particularly to notice is page 108, the statement at the bottom of the page attributed to Mr. Tavenner; all of page 109, page 110, page 111, concluding on page 111 at approximately the fifteenth line, at the end of Mr. Hicks' first statement on the page.

Those are all of the passages that the Government particularly requests the Court to note.

The Court: Before you proceed with the next item of evidence, can you summarize in a sentence or two what you contend this exhibit shows in so far as it is relevant to the issue the Court has to determine?

Mr. Hitz: Yes, Your Honor. The first passage, pages 1 to 3, contain the statements of the then chairman, Mr. Velde, with reference to the subject matter of the "Communist Methods of Infiltration (Education)," which investigation was then commencing.

Mr. Velde stated that they were not investigating education as such, or any universities or schools as such; but that they were investigating such portions of the field of

education where they were able to find and run into subversion.

The Court: I see.

Mr. Hitz: Much as they had already done with good results, legislative and otherwise, in the field of unionism. [fol. 56] On page——

The Court: Without going into these in detail, item by item, what else in a general way do you contend this exhibit shows?

Mr. Hitz: Yes, sir. Then Mr. Davis, whose testimony begins on page 3, was heard to say before the committee that he had been a member of the Communist Party; that he no longer was; that he was willing to give information in his possession with regard to his communist activities and what he knew about the party.

And on pages 31, 32 and 33 there was read to him by committee counsel, Mr. Tavenner, some excerpts from a writing of William Z. Foster, which Mr. Davis acknowledged were official Communist Party dogma and doctrine. And it will be noted that they bear upon the endeavors of the Communist Party within the field of education. Mr. Davis said that those were the objects of the party, so far as he knew.

The Court: Is it your point that the pertinency of these questions is shown by the fact that this defendant was a member of the faculty of an educational institution?

Mr. Hitz: That is right.

The Court: And that the committee was investigating communist infiltration into the faculties of educational institutions?

[fol. 57] Mr. Hitz: It shows the danger to which this committee was addressing its investigation when the witness was called.

The Court: Then I think that is all I need for the moment.

Mr. Hitz: And similarly with respect to the next two passages of another witness.

The Court: If all of these passages bear on that one aspect, I am not going to trouble you to go over them in detail at this time. I will read those passages, of course.

Mr. Hitz: They do all bear

The next Government Exhibit for identification is No. 8, which is a Government Print, as noted on my list, entitled "Education—Part 9."

The Deputy Clerk: Government Exhibit 8 for identification.

(The Government Print entitled "Education—Part 9" was marked for identification as Government Exhibit No. 8.)

Mr. Hitz: Being hearings before this committee on June 28 and 29, 1954.

With reference to Government Exhibit No. 7 that we have just passed from, I am sure the Court will note the dates on which that testimony was taken that we referred to as being prior to the testimony of the witness on trial.

With respect to Government Exhibit 8 for identification, [fol. 58] we offer the entire document, but with particular reference to invite the Court's attention to the testimony of one Crowley—C-r-o-w-l-e-y.

The Court: Are you offering it in evidence?

Mr. Hitz: Yes, Your Honor.

The Court: Is there any objection?

Mr. Wittenberg: The same objection.

The Court: The objection is overruled, it being understood that the document is admitted not as proof of the facts therein contained but merely as bearing on the issue of pertinency as indicating the matters the committee was investigating.

(The Government Print entitled "Education—Part 9," heretofore marked for identification as Government Exhibit No. 8, was admitted in evidence.)

Mr. Hitz: Particularly the Government wishes to invite the Court's attention to the testimony of Francis X. T. Crowley, given before the committee on June 28, 1954, found on page 5755.

I am sorry. Page 5753 is the commencement of the session at which Mr. Crowley testified.

The Court: Does that bear on the same thing?

Mr. Hitz: Precisely the same testimony, yes, sir.

The Court: Very well.

Mr. Hitz: With this one exception, that it goes farther

[fol. 59] than the testimony of Davis and Hicks contained in the other exhibit, because Mr. Crowley names Mr. Barenblatt as a person known to Crowley as a member of the Communist Party. But that is still on the subject matter of the pertinency of the appearance of Mr. Barenblatt before the committee and the questions that were asked of him after he was there.

The Court: You may proceed.

Mr. Hitz: We would like particularly to invite the Court's attention to that portion of Mr. Crowley's testimony which is included between pages 5753 and 5764, at the bottom.

The Court: Very well.

Mr. Hitz: And also to page 5776, beginning shortly above the middle of the page at the break, and going to 5778, approximately a third of the way down page 5778, where the following occurs:

"Mr. Kunzig: Are there any others?"

To end just prior to Mr. Kunzig's stating "Are there any others?"

The next portion of Exhibit No. 8 for the Government is what has been outlined as part (b) on my list of exhibits, which is the testimony of the witness which allegedly constituted the contempt.

The Court: That should be introduced in the presence [fol. 60] of the jury.

Mr. Hitz: And that will be introduced in the presence of the jury.

The next two government exhibits for identification will relate to matters to be covered by the Court alone, and they will relate to proof which is offered by the Government to show that there was a legislative purpose in fact in the testimony of Mr. Barenblatt and the general subject matter in which he testified, to show there were recommendations and legislative action in fact resulting from this and like testimony.

The next government exhibit will be 9 for identification; and the next is Government Exhibit 10 for identification.

I should identify Government Exhibit 9 for the tran-

script record. It is the 1953 annual report of this committee.

The Deputy Clerk: Government Exhibit 9 for identification.

(The annual report of the committee, 1953, was marked for identification as Government Exhibit No. 9.)

Mr. Hitz: The next is Government Exhibit 10 for identification which is the 1954 annual report of this committee.

The Deputy Clerk: Government Exhibit 10 for identifi-
[fol. 61] cation.

(The annual report of the committee, 1954, was marked for identification as Government Exhibit No. 10.)

Mr. Hitz: I would like now to offer Exhibits 9 and 10 for identification. And again I can point out particular parts that I would like the Court particularly to notice.

The Court: Is there any objection?

Mr. Wittenberg: Yes, sir; I object on the same ground, and on the further ground that there appears to be a great deal of matter in both of these reports which has no bearing on the issues before this Court.

The Court: This is an issue to be determined by the Court. And if the matter will have no bearing on the issue, then it won't affect the Court.

I am going to overrule the objection. I make the same ruling as I did before, and admit these exhibits, not as proof of any fact therein contained, but merely as tending to show that there was a basis for asking the questions that were directed to the witness and that the questions were pertinent—solely for that purpose.

(The 1953 and 1954 annual reports of the committee, heretofore marked for identification as Government Exhibits 9 and 10, respectively, were admitted in evidence.)

[fol. 62] Mr. Hitz: It is my understanding that there is no objection to the authenticity of the particular, physical print of these exhibits.

Mr. Wittenberg: That is correct. We waive that.

Mr. Hitz: As in the case of the other exhibits?

Mr. Wittenberg: That is correct.

Mr. Hitz: As to Government Exhibit No. 9 in evidence, I would like to request the Court particularly to notice item (a) on my list.

The Court: Yes.

Mr. Hitz: Which is page 144. And although I have listed these and given a copy to the Court and to the Clerk, I am mentioning this more or less for the benefit of the transcript record, too.

The Court: Yes.

Mr. Wittenberg: May I point out, sir, it is of no help to the defense, because——

The Court: Don't let us engage in colloquy.

Mr. Wittenberg: —because we haven't copies.

The Court: Just a moment. Don't let us engage in facetious colloquy.

Mr. Hitz: Part (a) is page 144 and 145 of this report, that subdivision entitled "Federal Aid to Educational Institutions," which, as noted on the top of page 144, is a part of the larger division entitled "Subsequent Action [fol. 63] Taken by Congress or Executive Agencies on past recommendations."

The Court: That is a little far afield, isn't it, Mr. Hitz?

Mr. Hitz: No, sir.

The Court: "On past recommendations." And the subheading refers to recommendation contained in the annual report of the committee dated January 23, 1941.

Mr. Hitz: Yes, Your Honor. And then action was taken with respect to that recommendation.

The Court: Is this offered to prove that the committee has made legislative recommendations previous to this hearing?

Mr. Hitz: Previous to this. They were acted on in 1952, and they were always subject——

The Court: But the reason the Court raises the question is that obviously these recommendations were not based on the hearings here in question——

Mr. Hitz: Oh, no.

The Court: Because they were recommendations contained in the report dated 1941.

Mr. Hitz: That is quite true. But action was taken in 1952. And at all times there is before this particular com-

mittee the duty to examine and to re-examine existing legislation to see whether it should be modified in any way, strengthened, eliminated, added to, or whatever.

[fol. 64] In fact, right now the matter of Federal Aid to Education is a very much discussed and an open and a sometimes burning question.

The Court: I don't think I shall consider the fact that the committee back in 1941 made some recommendations in regard to legislation. I think that is a little far afield. That goes to probative value.

Mr. Hitz: But it is background for the action taken in 1952 by the committee. And, furthermore, it has this additional bearing. I think that it is important to be able to show, or it is helpful to be able to show, if we can—and here we can—that the committee was taking testimony in a field in which Congress has taken action, that is, in a field that was open to Congress to act in. And it did act in it—that is, as distinguished from unconstitutional legislation.

The Court: I don't think that is the way to prove it, though. That is a question of constittuional law, whether this field is open for Congress to act.

Mr. Hitz: It is also indicative of the proper purpose of the committee, if action was recommended in 1941, taken in 1952, and no——

The Court: I won't hear argument at this time. I have a little doubt as to whether that is not going a little far afield.

[fols. 65-80] I think we will suspend at this time for our luncheon recess.

(At 12:30 p.m. the luncheon recess was taken until 1:45 this afternoon.)

[fol. 81] AFTERNOON SESSION

The Deputy Clerk: Case of United States versus Barenblatt.

Mr. Hitz: I think I was on Exhibit Number 9 and Part A, and there was some discussion as to whether or not that was too remote.

The Court: The whole exhibit is before the Court and if it is too remote the Court will not give it probative effect.

So I do not think any further discussion would be fruitful of results at this particular time.

Mr. Hitz: The next is Part B, which is found on Page 154 of this report.

That is Paragraph Number 37, which is entitled Encouragement of Qualified Informants Against Communist Movements, and it is a part of a larger heading which is itself found on Page 153, which is entitled Recommendations Contained in Annual Report of Committee, 81st Congress, Second Session, dated January 2, 1951.

Item Number 37 that I ask the Court to give attention to is a committee recommendation of '51 followed by an account of the action that was taken in that same year by the Congress.

The Court: As I understand it—I want to be sure that I understand your thought correctly—all that this is being introduced for is to indicate that the committee has made recommendations relating to legislation based upon the [fol. 82] testimony that was taken so that, if that is so, it would appear that the work of the committee had a legislative purpose.

Mr. Hitz: That is absolutely correct.

The Court: That is the only purpose for which this is meant?

Mr. Hitz: That is correct.

The Court: Very well. Then you do not need to go into details.

Mr. Hitz: The next item is on the next page. It is on Page 155. The subject matter is Immunity for Congressional Witnesses. It is Item Number 41 as listed here in this report. Action had theretofore been considered to force the testimony of witnesses who would not testify. It so happens that that legislation was directed against so-called Fifth Amendment witnesses, but at least the subject matter of obtaining information from witnesses who would not give it was being considered by Congress.

We won't speculate, of course, on what they would have done, but the subject matter was there, and they had entered the field. And we say it was a proper field for legislation and legislative investigation.

The next item is listed as D in our list of exhibits and it

is contained on Pages 157 and 158 under a large heading which is entitled, Recommendations Based Upon Investigations and Hearings in the Year 1953.

[fol. 83] I would like to invite the Court's particular attention to the entire, this entire portion.

The Court: Yes. This is only two pages.

Mr. Hitz: Of the report of two pages. Some has an important hearing here and some has little or none, but I think it would be worthwhile to read it all instead of to weed out some that is unimportant and thereby taking the rest out of context.

That concludes the parts of the Government Number Nine that I particularly ask the Court to take notice of, having in mind that the entire document, nevertheless, is in evidence.

The next exhibit is Government Exhibit Ten, which I understand was admitted when Nine was, and is now in evidence.

The Court: Yes. It was admitted for the same limited purpose.

Mr. Hitz: Same limited purpose it is being offered for. The items in Number Ten that we invite the Court's particular attention to are Pages 1 to 3, which is that portion of the report called Foreward (sic).

I should say for the transcribed record that Government Exhibit Ten is the 1954 annual report of this committee. The next portion of this annual report for 1954 is that part of it designated as Michigan, to be found on Page 14.

The Court: Very well. And only the first two paragraphs of that sub-section entitled Michigan, those two paragraphs, [fol. 84] the second of which concludes on Page 15.

Mr. Hitz: The next item is on Page 17—the first full paragraph—I am sorry, it should be Page (sic) 16 and 17. It would be the last paragraph on 16 that we ask the Court to gives (sic) its particular attention to and the carry-over of that paragraph on 17 and the first full paragraph on 17.

And the last portion of the report, Pages 22 and 23, entitled Recommendations Based Upon Investigations and Hearings in the Year 1954.

The Court: I am wondering, now, whether your page

numbers are correct, because the copy I have before me, Pages 22 and 23 are something else entirely.

Mr. Hitz: I wonder if I could see Your Honor's copy?

I think Your Honor is looking at Government Nine and I was looking at Government Ten.

The Court: I am sorry. I think the error is mine.

Mr. Hitz: I wonder if we should go back any?

The Court: No. It is not necessary.

Mr. Hitz: Page 22 of Government Ten is a new topic. It may well be that there are parts of these recommendations based upon the 1954 hearings which would not bear on the investigation into——

The Court: As I understand it, all you are trying to show is that the committee was performing a legislative function?

[fol. 85] Mr. Hitz: That is correct. And it is demonstrably performing it, because we have shown it. It is right here.

The Court: And of course the nature of the recommendations I do not think is something for the Court to consider, but the fact that the committee was making recommendations in this general legislative field is evidence that it was performing a legislative function.

Mr. Hitz: That is absolutely right.

The Court: That is all this evidence is adduced for and received.

Mr. Hitz: And for no other probative value. We offer this, although we feel that proof in this field of actual legislation proposed need not be made at all, we are nevertheless making it.

The Court: No. Because frequently investigations do not result in legislation or in proposed legislation. Sometimes investigations are made in order to determine whether any legislation should be had, and that is still a legislative function.

Mr. Hitz: Of course legislation has to have some beginning at sometime.

The Court: Suppose the investigation results in a conclusion on the part of the committee that there should be no legislation, even so the investigation may be the performance of a legislative function.

[fol. 86] Mr. Hitz: In that connection I have before me a very apt quotation from the Townsend Case, 95 Fed. 2nd 352.

The Court: Yes. I remember that case. I do not think you have to argue that.

Mr. Hitz: Your Honor, that will conclude the evidence we have on the pertinency of the subject matter. We likewise elicit the same evidence as proof of the pertinency of the particular questions that were asked in addition to maintaining with respect to Counts One, Two, Three and Four that those counts are obviously and without, I think, possible dispute, pertinent on their face, and that Count Five may well be considered pertinent on its face certainly if taken in conjunction with an answer to a question which I seek to elicit now from Mr. Appell and I do not think Mr. Appell has been sworn.

The Court: He has been sworn, but has not been identified.

Direct examination.

By Mr. Hitz:

Q. Mr. Appell, will you state your name.

A. Donald T. Appell, A-p-p-e-l-l.

Q. Your occupation?

A. I am an investigator for the Committee on Un-American Activities, House of Representatives.

Q. How long have you been?

A. I am in my tenth year.

Q. Did you take part in the investigation for the committee of subversive and Communist activities in the Michi-

[fol. 87] gan area?

A. I did. On three separate occasions.

Q. And in what year or years?

A. 1951, 1952, 1953, 1954.

Q. Are you able at this stage to tell us whether or not the Michigan Council of Arts, Sciences and Professions was a branch of a national organization of any sort?

Mr. Wittenberg: That is objected to on the grounds that it calls for a conclusion of the witness and that nothing has been shown as a basis for it.

The Court: Objection sustained. I suggest you develop that step by step in view of the fact that objection is made.

By Mr. Hitz:

Q. Mr. Appell have you ever heard of an organization called the Council of Arts, Sciences and Professions?

A. I have, sir.

Q. In 1954 did that organization have any sub-organizations or locals, so to speak?

COLLOQUY BETWEEN COURT AND COUNSEL

Mr. Wittenberg: Just a moment. That is objected to on the grounds of the competency of the witness to testify unless we know what his connection was and the basis for the conclusion which he is asked to give.

The Court: Are you objecting on the ground that it is hearsay?

Mr. Wittenberg: Hearsay.

[fol. 88] The Court: Objection sustained. Of course the objection may seem technical, but if counsel elects to make it and it is technically well founded in the law the Court has to sustain it.

Mr. Hitz: I understand. It is not subject to proof, not subject to further perusal. He was never a member of it. I have no further questions.

The Court: I suppose if technical proof is required you would have to get either some member of the organization or its constitution; something of that sort.

Mr. Hitz: Nothing further on this subject of pertinency.

Mr. Wittenberg: No cross with regard to that, sir.

The Court: Do you have anything further with this witness?

Mr. Hitz: He said he had no cross with respect to this particular subject. Do you have any cross of this witness on any subject, Mr. Wittenberg?

The Court: No. The cross-examination has to be confined to the direct examination.

Mr. Hitz: I realize that, but he said on this subject.

The Court: After all, you only asked this witness some preliminary questions.

Mr. Hitz: I understand. Now, your question to me, sir?

The Court: Have you anything further with this witness?

Mr. Hitz: No, Your Honor, at this time.

[fol. 89] The Court: The witness may step down. If you need him later you may recall him.

Mr. Hitz: Thank you. We have nothing further on the matter of pertinency of the subject mater (sic) or the particular questions. I am sorry, we do on the last question; we do.

The Court: What are you going to do—you say you do have something on the last question?

Mr. Hitz: That will come out in connection with the testimony before the jury.

The Court: Does the defendant desire to offer any testimony out of the presence of the jury on the issue of pertinency?

Mr. Wittenberg: No, sir. We have nothing to offer at this time. We would like to ask the Court's consideration of this.

We have just been given references to a number of pamphlets which we do not have in our possession and which I have not been able to examine.

If I were to endeavor to address Your Honor with regard to them I certainly should know something of their contents.

May I ask Your Honor's indulgence that we have some time in which we may have these exhibits for the purpose merely of reading them to find out what they contain?

The Court: We will proceed with the trial. Have you got additional copies of those exhibits, because I am going to [fol. 90] take the originals home overnight.

Mr. Hitz: He can have my copies. He will be furnished with copies.

The Court: Very well. You can read them overnight and—because I see that we can't finish the trial this afternoon, and I will withhold ruling on the issue of pertinency until you have an opportunity to state whether or not you wish to offer any testimony on that issue. If you do, I will exclude the jury again and take that testimony.

In the meantime, the Government may proceed with such testimony as it desires to offer in the presence of the jury.

You may bring back the jury.

(Thereupon, at 2:10 p. m. the jury returned to the courtroom.)

Thereupon DONALD T. APPELL was called as a witness and, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Hitz:

Q. Mr. Appell, will you be good enough to state your full name, please?

A. Donald T. Appell. A-p-p-e-l-l.

Q. And your occupation?

A. I am an investigator for the Committe (sic) on Un-
[fol. 91] American Activities, House of Representatives.

Q. How long have you been?

A. I am in my tenth year.

Q. In June 1954, Mr. Appell, can you tell us who were the members of the Un-American Activities Committee?

Mr. Wittenberg: That is objected to on the grounds that it comes from an incompetent source.

The Court: Objection overruled.

Mr. Wittenberg: Exception.

The Court: I want counsel to come to the bench, please.

(At the Bench)

The Court: I should like to remind counsel that exceptions have been abolished. They were abolished years ago in the Federal courts, so if your objection is overruled, you need not say exception and in fact not only do not need to, I do not think it is proper. The fact that you have made an objection, and the objection is overruled, protects the record as far as you are concerned.

(In Open Court)

The Witness: Congressman Velde of Illinois was the chairman of the committee. The majority members at that

time were Mr. Clardy of Michigan; Mr. Scherer of Ohio; Mr. Kearney of New York; and Mr. Jackson of California. The minority members at that time were Mr. Walter of Pennsylvania; Mr. Moulder of Missouri; Mr. Frazier of Tennessee; Mr. Doyle of California.

[fol. 92] The Court: Mr. Hitz, you have put in evidence as Government Exhibit Number Three a certificate listing the members of the committee.

Mr. Hitz: Yes, Your Honor.

The Court: Of course that was offered for the purpose of the hearing without the jury. But I suppose it would be equally admissible for the part of the case that is to be determined by the jury.

I suggest you re-offer this exhibit. Then the question of the rather technical objection raised by counsel would vanish.

Mr. Hitz: Yes, Your Honor. I will read the exhibit in v[illegible] of counsel's objection.

The Court: Let Government Exhibit Number Three be considered as part of the trial that is being conducted in the presence of the jury.

Mr. Hitz: And may I read it to the jury?

The Court: Yes, indeed.

Mr. Hitz: Office of the Clerk, House of Representatives, Washington, D. C.

I am reading for the record Government Exhibit Number Three, in evidence.

I, Lyle O. Snader, Clerk of the House of Representatives do hereby certify that the following members constitute the Committee on Un-American Activities of the House of [fol. 93] Representatives as is evidenced in the Journal of the House of Representatives of January 19, 1953:

Harold H. Velde, Chairman, of Illinois. Bernard W. Kearney, of New York. Donald L. Jackson of California. Kit Clardy of Michigan. Gordon H. Scherer of Ohio. Francis E. Walter of Pennsylvania. Morgan M. Moulder, of Missouri. Clyde Doyle of California. James B. Frazier, Junior, of Tennessee.

In witness whereof I hereunder do fix my name and the seal of the House of Representatives in the City of Washington, District of Columbia, this 23rd day of July, anno

domini 1954; signed in ink, Lyle O. Snader, Clerk of the House of Representatives.

And it has got his seal over on the lower left-hand corner and here is the exhibit.

By Mr. Hitz:

Q. How many members of that committee? Do not name them; just count them.

A. There are nine.

Q. Were there then in 1954?

A. Yes.

Q. Have you got a copy of Education, Part Nine, the hearings of the Un-American Activities Committee for the dates June 28 and 29, 1954?

A. I have.

[fol. 94] Q. Did Lloyd Barenblatt appear before the Un-American Activities Committee and give testimony in the month of June 1954?

A. He did.

Q. What day?

A. June 28.

Q. Where was this hearing held?

A. In the old House Office Building in Washington, D. C.

Q. Would you be good enough to turn to Page 5753 of Government Number Eight and tell us whether—tell us who was present at the commencement of the hearing of June 28, 1954, of the committee.

Mr. Wittenberg: That is objected to as incompetent and hearsay.

The Court: No. That is not hearsay. He has a right—a person who was present on a particular occasion has a right to state who else was present.

Mr. Wittenberg: Not by way of designating an official qualification of the person present.

The Court: No. That is not hearsay.

Mr. Wittenberg: This witness is obviously not a person who should be testifying as to the qualifications of a congressional member.

The Court: He is not testifying as to qualifications. [fol. 95] The question asked of him is— Were you present on that occasion.

The Witness: Yes. I was.

The Court: Do you remember what committee members were present?

The Witness: I would have to refresh my memory from the records.

The Court: Can you refresh your recollection by referring to Page 5753 of the exhibit to which Mr. Hitz has referred?

The Witness: Your Honor, Mr. Hitz referred to Exhibit Eight. I only have before me Exhibit Nine.

The Court: Have you got anything to refresh your recollection?

Mr. Hitz: He means he has Part Nine. He has Exhibit Eight.

The Court: It has been marked here Exhibit Eight. Does that refresh your recollection?

The Witness: Yes. It does.

The Court: You may answer the question.

By Mr. Hitz:

Q. What members of the committee were present then, sir?

A. The hearing was presided over by the chairman, Mr. Velde and there were present Mr. Jackson, Mr. Clardy, Mr. Scherer, Mr. Walter, and Mr. Frazier.

Q. How many is that?

[fol. 96] A. There are six. I might point out here, Mr. Hitz, that these gentlemen would leave and depart as the testimony was being taken and where a member left or returned to the room it is so noted through the transcript.

Q. Yes. Thank you. And at the commencement, as noted on Page 5753, and to your independent recollection as well, there were six present, right, sir?

A. Yes.

Q. What time of the day of June 28, 1954?

A. This was in the afternoon, as I recall.

Q. Look on 5753 and see if that refreshes your recollection as to when it was—what time of day?

A. I understood you to talk about the appearance of Mr. Barenblatt. The hearing was called to order at 10:30 in the morning.

Q. I mean the day's hearing commencement. Who was the counsel present at the time of the commencement of this hearing in the morning of the 28th of June?

A. Robert Kunzig.

Q. Mr. Appell, at a later occasion after 10:37 a. m. did Mr. Frazier—by the way, if you will look at Page 5753 with reference to Mr. Frazier, do you find any notation which refreshes your recollection as to whether or not Mr. Frazier was present at the beginning of the hearing in the morning?

A. As I stated, the transcript shows that those members [fol. 97] who left and returned, that their leaving or entering is noted in the transcript through the testimony?

Q. With respect to Mr. Frazier at the commencement of the hearing in the morning, does it state appearance shown in transcript?

A. It does.

Mr. Wittenberg: I object to the witness' being led into testifying what is in a record.

The Court: No. Just object. Don't argue.

Mr. Wittenberg: I object to the witness being led into testifying and reading from a record instead of testifying as to his independent recollection.

The Court: Objection overruled. The Court's understanding is that the document is being used to refresh the witness' recollection. Will counsel come to the bench.

(At the Bench)

The Court: Of course, Mr. Wittenberg, you are within your rights and if you want to keep on making technical objections the Court will rule on them. If they are sound the Court will sustain them and if they are not the Court will overrule them. But I think I owe it to you to tell you that members of this Bar do not generally keep urging technical objections.

Mr. Wittenberg: If this witness were a qualified witness, but to produce a clerk instead of a member of the committee or counsel to the committee and then to have him read the [fol. 98] record as though it were his recollection is not fair to the Court.

The Court: These are all matters of record that he is

testifying to. I am just making a suggestion. You can follow such course as you choose. However, I repeat that members of the Bar of this court do not generally invoke technicalities except when something vital is involved or something that counsel thinks could not be proved in a technically correct way.

As I say, you are within your rights and if your objections are sound they will be sustained. But after all, we are not running a law school class of evidence.

Mr. Wittenberg. That is not the point. If they produce a competent witness, I may be able to cross-examine, but if they produce a man who merely reads the record, he may not examine what the committee had in mind.

The Court: He is not testifying what the committee had in mind.

Mr. Wittenberg: He is going to read the record.

The Court: He was asked some questions as to who was present. If you are going to raise technical objections I am going to require the Government to make very technical proof.

Mr. Hitz: I can do that. I can get the stenographer to bring his shorthand notes.

The Court: Because, of course, Mr. Hitz being a very able and experienced trial lawyer, does not want to get any [fol. 99] reversible error in the record and he does not want to leave it open to technical objections at some later stage.

Mr. Hitz: I do not.

The Court: I am going to make him make technical proof, or if he cannot make it I am going to throw the case out, if you object, but I do not see how it is going to help you to insist. You may do so if you choose.

Mr. Wittenberg: No, sir. Only on the subject of the competency of this particular witness, if Mr. Hitz wants to ask me to stipulate that this is a correct transcript of the proceedings, I have no objection.

Mr. Hitz: All right. I will ask you to do that.

Mr. Wittenberg: I will do that. I have no objection to that; it is having this witness testify as if he were competent.

The Court: All he did was testify who was present. However, maybe this will eliminate those matters.

(In Open Court)

The Court: You may proceed, Mr. Hitz.

Mr. Hitz: Your Honor, in view of the stipulation by Mr. Wittenberg that this is a correct transcript of the proceedings, and I believe that is the stipulation, I would like Mr. Wittenberg to affirm it if I am correct.

The Court: Do you so stipulate?

Mr. Wittenberg: Yes.

[fol. 100] The Court: Very well.

Mr. Hitz: I would like, then, without questioning the witness to offer to the Court in evidence for jury purposes that portion of Page 5753 of this Exhibit which is the second paragraph.

The Court: It may be admitted.

Mr. Hitz: May I read it to the jury?

The Court: Yes, indeed.

Mr. Hitz: "Committee members present: Harold H. Velde, chairman——"

You count now, Mr. Appell, as I go along. I cannot count, I am a questioner here——

"Representatives Harold H. Velde, Chairman; Donald L. Jackson; Kit Clardy; Gordon H. Scherer; Francis E. Walter——"

How many is that, sir?

The Witness: Five.

Mr. Hitz: "—and James B. Frazier, Junior (appearance shown in transcript)."

I would like, now, if Your Honor please, to permit me to direct the jury's attention to a matter of evidence which will appear in this exhibit on Page 5755 at the top of the page in parentheses. That item of evidence from this particular exhibit I offer in evidence for jury purposes, enclosed within parentheses. Do you have it?

[fol. 101] The Witness: Yes. I have that.

Mr. Hitz: I offer the parentheses and its contents in evidence.

The Court: It may be admitted.

Mr. Hitz: May I read it?

The Court: Yes, indeed.

Mr. Hitz: Quote (Representative James B. Frazier, Junior, entered the hearing room at this point.) Unquote.

By Mr. Hitz:

Q. You have added up to five, have you, sir?
A. Yes.
Q. And one more is how much?
A. Six.

Mr. Hitz: I would like, now, Your Honor, to turn to Page 5778, at the bottom, and I offer in evidence those two items contained in two sets of parentheses at the bottom of that page for purposes of the jury's consideration.

Mr. Wittenberg: May I be excused if I mark my copy to show these two sets of parentheses?

The Court: Surely.

Mr. Hitz: I offer those in evidence for this purpose.

The Court: They may be admitted and they may be read to the jury.

Mr. Hitz: You have gotten to six, have you, Mr. Appell? [fol 102] The Witness: Yes.

Mr. Hitz: "(Representative Morgan M. Moulder entered the hearing room at this point.)"

Will you add one to the six and what do you get?

The Witness: Seven.

Mr. Hitz: Continuing without omission.

"(Representative Francis E. Walter left the hearing room at this point.)"

Will you take one away from seven, sir, and what do we get?

The Witness: We have six.

The Court: How many members were there on the committee, Mr. Hitz?

Mr. Hitz: Nine.

The Court: A majority was a quorum?

Mr. Hitz: A majority was a quorum and we now have six members present.

By Mr. Hitz:

Q. Mr. Appell, would you be——

Mr. Hitz: I think I will do it in this way, Your Honor. I would like to, in order to save time, to invite a stipulation

from Mr. Wittenberg that there are no further entries of congressmen leaving or entering who are members of this committee from Page 5778 until the testimony of Mr. Barenblatt on 5801.

I can represent to Mr. Wittenberg that I believe that [fol. 103] to be a fact and I invite that to be a stipulation.

Mr. Wittenberg: If that is a fact I shall certainly so stipulate.

Mr. Hitz: If it please the Court, if that is so stipulated it necessarily follows that the six members that have been counted by Mr. Appell were those present at the time of the commencement of Mr. Barenblatt's testimony, which, Your Honor, is to be found on Page 5801, and at this time, Your Honor, I would like to offer in evidence for jury purposes of this case that portion of the Government Exhibit Number Eight which is Education, Part Nine of the print of hearings of this committee, as begins on Page 5801, six lines above the break on that page, where it states "Mr. Kunzig: Mr. Lloyd Barenblatt."

I would like to offer from that place to Page 5807 at this time.

The Court: That is the defendant's testimony?

Mr. Hitz: That is the defendant's testimony and up to that point it is without omission to that point. We offer it to 5807, at the end of the large print on that page and may it be received in evidence for jury purposes, Your Honor?

The Court: It will be admitted.

Mr. Hitz: The Government would like to proceed in this fashion, if it is agreeable to the Court, to have Mr. Appell read this testimony, question and answer, to the jury.

[fol. 104] The Court: He may do so.

By Mr. Hitz:

Q. Mr. Appell, would you be good enough to turn to 5801 where Mr. Kunzig calls Mr. Barenblatt and read there.

The Court: I think before you commence, Mr. Hitz, may I make this request of you.

Mr. Hitz: Yes, Your Honor.

The Court: When the reading reaches any one of the

five questions involved in the indictment, will you call the Court's attention to that?

Mr. Hitz: I will, Your Honor.

The Court: You may proceed.

The Witness: Shall I start with Mr. Barenblatt being asked to identify himself to the committee or with the oath by the chairman?

The Court: Where do you want to begin?

Mr. Hitz: Where he is called by Mr. Kunzig, a few lines above the break there.

The Witness: "Mr. Kunzig: Mr. Lloyd Barenblatt.

"Mr. Velde: In the testimony you are about to give before this subcommittee, do you solemnly swear you will tell the truth, the whole truth, and nothing but the truth, so help you God?

"Mr. Barenblatt: I do.

"Mr. Velde: Be seated.

[fol. 105] Testimony of LLOYD BARENBLATT, accompanied by his counsel, Philip Wittenberg.

"Mr. Kunzig: Would you state your full name, please, sir?"

The Court: May I suggest this. All the jurors have to follow your reading. I would suggest you read a little slower and loud and distinctly. The Court has the advantage of having your copy before it; but the jurors do not.

The Witness: Thank you, Your Honor.

"Mr. Barenblatt: My name is Lloyd Barenblatt, B-a-r-e-n-b-l-a-t-t.

"Mr. Kunzig: What is your present address, sir?

"Mr. Barenblatt: My present address is Route No. 2, Pleasant Valley, N. Y.

"Mr. Kunzig: What is your present address, sir?

"Mr. Barenblatt: My present address is Route No. 2, Pleasant Valley, N. Y.

"Mr. Kunzig: Mr. Barenblatt, I see that you are accompanied by counsel. Would counsel please state his name and office address for the record.

"Mr. Wittenberg: Philip Wittenberg, W-i-t-t-e-n-b-e-r-g, 70 West 40th Street, New York City, N. Y.

"Mr. Kunzig: Thank you, sir.

"Mr. Barenblatt, will you give the committee a brief [fol. 106] resumé of your educational background?

"Mr. Barenblatt: Yes, sir. I suppose they want me to begin at the high school level?

"Mr. Kunzig: Fine.

"Mr. Barenblatt: I attended Clinton High School in New York City.

"Mr. Kunzig: When did you graduate?

"Mr. Barenblatt: January 1940, as I recall. I then enrolled as a student at the College of the City of New York; that was in February 1940. I left the College of the City of New York for one semester. I enrolled in the United States Maritime Service. When there I was struck with spinal meningitis. I left the Maritime Service to recuperate and went back to school while I was convalescing. My classification was 4-F. However, as soon as I felt better I appeared for voluntary induction into the United States Army for aviation cadet training.

"Mr. Kunzig: What is your present age, Mr. Barenblatt?

"Mr. Barenblatt: Thirty-one, sir.

"Mr. Kunzig: Have you completed your formal education?

"Mr. Barenblatt: Well, I still intend to complete the re- [fol. 107] quirements for a doctor of philosophy degree. I have a bachelor's degree from City College. I am sorry. I didn't finish my educational background.

"Mr. Kunzig: Go right ahead.

"Mr. Barenblatt: It was an oversight on my part. Excuse me.

"Mr. Kunzig: All right.

"Mr. Barenblatt: I attended the University of Iowa when I was discharged from the Army. I spent a year and a half, I believe, at the University of Iowa. In the summer of 1947 I enrolled in the University of Michigan in the graduate school of studies for the purpose of working for the Ph.D. in social psychology.

"Mr. Kunzig: What period of time exactly were you at the University of Michigan?

"Mr. Barenblatt: I was in residence at the University of Michigan from the summer of 1947 until the spring semester of 1950.

"Mr. Kunzig: Did you know Francis Crowley at that time, who testified here this morning?

"Mr. Barenblatt: Sir, I would like here to state my objections to the power and jurisdiction of this committee to inquire into my political beliefs, my religious beliefs, and [fol. 108] any other personal and private affairs or my——"

Mr. Kunzig interrupts.

"Mr. Kunzig: Just a minute. I asked you a very simple question, which I don't think has anything to do with religious beliefs, or all the other beliefs you mentioned. Do you know Francis Crowley?

"Mr. Barenblatt: Yes.

"Mr. Kunzig: You do know him?

"Mr. Kunzig: You can hold that for a minute. I will get around to it in a minute. Now, did you hear Mr. Crowley testify this morning?

"Mr. Barenblatt: Yes, sir.

"Mr. Kunzig: You heard him identify Lloyd Barenblatt as a person he knew to have been a member of the Communist Party?

"Mr. Barenblatt: I believe I heard him to say, I believe his words were more in the way of saying that I was a member of the Haldane Club. I don't recall exactly his saying that I was a member in the Communist Party. However, I suppose the record will show that.

"Mr. Kunzig: The record shows the Haldane Club meant the Haldane Club of the Communist Party.

"Mr. Velde: And I think that was made clear in his pre- [fol. 109] vious testimony.

"Mr. Barenblatt: If the record so states, I don't remember, sir.

"Mr. Kunzig: It does. Now, were you a member of the Haldane Club of the Communist Party at Michigan?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

The Witness: Should I note the conferences between——

Mr. Hitz: I would like for you to read it all, yes.

The Witness: "Mr. Barenblatt: At this point I respectfully would like to object to the questions——

"Mr. Doyle: Mr. Chairman——

"Mr. Velde: All right. You have the floor.

"Mr. Doyle: Before the young man takes the time of the committee to read that, whatever it is, may I just urge you to think even more seriously than you have about whatever position you are going to take before this committee. I know you have competent counsel, and of course you should rely on him, possibly, but I anticipate you might be preparing yourself to take the position opposite to that of cooperation with the committee.

"I am in no position to give you legal advice, but I know from the record that you are an instructor in a certain [fol. 110] very distinguished college, by reputation, at least, and wouldn't it be a magnificent thing if you could take the position that if you ever were a member of the Communist Party, that you say so frankly and clean up and get out of that embarrassing situation and then start from there? Wouldn't that do you and the country a lot more good today——

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Doyle: Or put it on this basis. Wouldn't it do your country a lot more good?

"Mr. Barenblatt: I appreciate your concern, sir.

"Mr. Doyle: I am opening the door, for you, sir.

"Mr. Barenblatt: I understand, sir. However, I feel that this statement of objection which I am about to read might explain some things to the members of the committee.

"Mr. Doyle: Well, as a young man you can never say now that we haven't opened the door deliberately, and maybe I am embarrassed before the committee at this point——

"Mr. Velde: You certainly have given him every opportunity, Mr. Doyle, and I think he has had every oppor-

[fol. 111] tunity before to come clean. Let me say this about this statement you are about to read. You are familiar with the rules of this committee——

"Mr. Barenblatt: I believe so, sir.

"Mr. Velde: The committee made them some time ago. And are you familiar with Rule 9 concerning statements by witnesses?

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Velde: If not, let me read them again. (Reading:)

"'Any witness desiring to make a prepared or written statement for the record of the proceedings in executive or public sessions shall file a copy of such statement with the counsel of the committee within a reasonable period of time in advance of the hearing at which the statement is to presented.

"'All such statements so received which are relevant and germane to the subject of the investigation may upon approval at the conclusion of the testimony of the witness, by a majority vote of the committee or subcommittee members present be inserted in the official transcript of the proceedings.'

"It is my feeling, and I am sure the other members agree, [fol. 112] that your submitting the statement at the present time is not a reasonable time prior to the hearing. Now——

"Mr. Barenblatt: May I say this——

"Mr. Velde: Now, let me ask you one question. If you answer in the affirmative or in the negative, either one, then I believe that the committee would be very willing to let you read this statement. Are you not a member of the Communist Party?"

Mr. Hitz: That is Count One, Your Honor.

The Witness: "(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: Sir, this is an objection to the questions asked by the committee.

"Mr. Velde: I realize——

"Mr. Barenblatt: It is not a preliminary statement——

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: And I ask for leave to read the objections.

"Mr. Velde: It is assumed by the committee to be a preliminary statement. Now, will you answer the question if you are a member of the Communist Party at the present time?

[fol. 113] "(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: I object on the following grounds——

"Mr. Kunzig: Mr. Chairman, he is about to read an 11-page legal brief. This is obviously a delaying tactic.

"Mr. Velde: I am not going to let him do it. The committee will take the statement up in executive session and determine if it should be placed in the record.

"Mr. Barenblatt: But, sir, I believe I have a right to state my objections to the question. That is all I am doing.

"Mr. Velde: You will be given that right if you will answer the question in the affirmative or negative.

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: What is the question?

"Mr. Velde: Whether you are a member of the Communist Party at the present time.

"Mr. Barenblatt: May I confer with counsel?

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

[fol. 114] "Mr. Barenblatt: I object to this on the grounds that I will state and that I have handed to the committee.

"Mr. Walter: Never mind objecting. Do you decline to answer?

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: I do not decline to answer. I am objecting to the question.

"Mr. Velde: Then will you answer?

"Mr. Barenblatt: I am objecting to the question, sir. I wish that I might make that clear. I don't see what the trouble is about stating my grounds for objection. I notice that other witnesses have been able to do so, and I wish to claim the privilege——

"Mr. Kunzig: The other witnesses didn't decline to answer. Do you decline to answer?

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: I decline to answer——"

Mr. Wittenberg: May the record show that at that point the witness was interrupted by Mr. Velde and did not complete that sentence?

The Court: That is apparent from the record.

Mr. Wittenberg: As it is read it is sometimes said in-
[fol. 115] terruption and sometimes not.

The Witness: "Mr. Velde: Now, Mr. Witness, perhaps you are not familiar with the procedure before a congressional committee. It is entirely different than before a court of law. This is not a court of law. Your privileges are set up in the rules of the committee, and I assume you have a copy of the rules of the committee.

"Mr. Wittenberg: I have, sir.

"Mr. Velde: And we cannot have counsel putting the answers into the witness' mouth. You have a right to confer with your witness as far as his constitutional rights are concerned, but you have spoken loud enough to show that you are trying to get the witness to read this statement. Obviously——

"Mr. Wittenberg: Sir, that would be my advice to him.

"Mr. Kunzig: Now, he had started to say, Mr. Chairman, he declines to answer the question as to whether he is not a member of the Communist Party. Now, do you so decline on the grounds of the Fifth Amendment, among other things, in this statement?

"Mr. Barenblatt: I wish to confer with my counsel, please.

[fol. 116] "(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: I do not invoke the Fifth Amendment in declining to answer. I decline to answer on the grounds stated in my objections as presented to the members of this committee, which you have not allowed me to read.

"Mr. Walter: Now, may I inform you that you haven't the right to decline to answer by virtue of any decision of the court. It is because of the Constitution. Now, do you decline to answer because of the constitutional provision?

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: May I consult with counsel, sir?

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: I am declining to answer on constitutional grounds as stated in my objections.

"Mr. Velde: But you do not include the Fifth Amendment in your reasons in declining; is that right?

"Mr. Barenblatt: You are correct, sir.

"Mr. Kunzig: Are you stating in this document which [fol. 117] you have just handed to us, and which we have had no time to look at at all, that the Fifth Amendment is not included?

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: Not included in my list of objections.

"Mr. Kunzig: So you are declining to answer the question as to whether you are now a member of the Communist Party, and you are specifically not giving the Fifth Amendment as a reason for declining?

"Mr. Barenblatt: That is correct, sir.

"Mr. Kunzig: All right. Now, Mr. Chairman, I respectfully request that the witness be directed to answer the question: Are you now a member of the Communist Party?

"Mr. Velde: The witness is directed by the Chair to answer that question.

"Mr. Barenblatt: I would like to consult with counsel, sir.

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: I decline to answer on the following grounds: I, Lloyd Barenblatt, having been subpenaed before the Committee on Un-American Activities, by subpena [fol. 118] dated the 28th day of May 1954——"

The Witness: Interruption by Mr. Velde.

"Mr. Velde: Now, you have gone far enough with the statement. You are trying to read it into the record.

"Mr. Barenblatt: May I continue with my grounds——"

The Witness: Interruption.

"Mr. Velde: I say the statement is accepted by the committee and will be considered for insertion in the record. Now, proceed with your answer.

"Mr. Barenblatt: This is not a statement, not a preliminary statement. This is the grounds——

"Mr. Velde: Whatever you want to call it.

"Mr. Barenblatt: I would like to get it into the record.

"Mr. Velde: Whatever you want to call this, it is a statement of objections, it will be considered by the committee at a future time for insertion into the record. Now, will you answer the question?

"Mr. Barenblatt: May I consult with counsel?

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

"Mr. Barenblatt: I am objecting on these grounds, and I will not answer any questions about which the list of ob- [fol. 119] jections is read: my political beliefs; my religious beliefs; any other personal and private affairs; my associational activities.

"I will not answer any of those questions on the grounds of my objections in this statement which I again respectfully request that I be able to read at this point to get into the record the objections so that we can proceed from that point."

The Court: I think we will take our usual mid-afternoon respite at this time.

(Thereupon, a short recess was had.)

The Court: You may proceed, gentlemen.

The Witness: "Mr. Walter: We will spare you a lot of time. I have read this, so a member of the committee is well acquainted with what is in it. Now, let's proceed.

"Mr. Velde: I want to know this from the witness. In refusing to answer this question upon direction by the Chair, you are not relying upon the Fifth Amendment to the Constitution?

"Mr. Barenblatt: You are correct, sir.

"Mr. Velde: All right. Proceed.

"Mr. Kunzig: And at no time in this interrogation of you today, at no time in your appearance before the House Committee on Un-American Activities, are you relying on the [fol. 120] Fifth Amendment?

"Mr. Barenblatt: I can't make any statement about what might occur in the future, sir. All I can say at this point, I have no anticipation now of doing so.

"Mr. Doyle: At least today you are not relying on it, at this time?

"Mr. Barenblatt: All I can talk about is the present——

"(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Kunzig: Mr. Chairman, I respectfully request that since the witness has asked to be able to put this document into the record as his reason for not answering the question that he has been asked, which is, Are you now a member of the Communist Party, which he was directed to answer and which he refused again to answer, I respectfully request that this document be included in the record as his reason for not answering.

"Mr. Velde: Yes. I have not had an opportunity to read the full statement, but I am going to take the word of my colleague from Pennsylvania and my colleague from California, and without objection, at this point the objections or [fol. 121] statement, or whatever the witness wants to call it, will be inserted into the record as Barenblatt Exhibit No. 1."

Mr. Hitz: May we come to the bench, Your Honor?

The Court: Yes, indeed.

(At the Bench.)

Mr. Hitz: Your Honor, it appears to me that the jury issue here is whether or not there was a deliberate and an intentional refusal to answer with the reason why it was refused, if it was, being not material to the jury.

The Court: That is correct.

Mr. Hitz: Therefore, the only probative value that this statement that is now following in the printed record could possibly have, could be that it be for jury purposes.

The Court: This is a legal brief and I am not going to have it read to the jury.

Mr. Hitz: That is exactly my point. Its only value to the defendant as a jury question would be some how does it include an answer. It does not include an answer.

Furthermore, he states that his objection is made in the statement and that it is nothing but an objection. It is not an answer.

The Court: It is an objection to the jurisdiction of the committee. That is a legal question and counsel can argue it to the Court.

[fol. 122] I shall not permit it to be read to the jury. We do not read legal briefs to the jury.

Mr. Wittenberg: At this point it may be designated as a legal brief. It was part of the proceedings. It was referred to later on by the committee following at 5810, as a basis for the statement of objections, we read from Mr. Velde, there is a statement by Mr. Kunzig and then there is a statement by Mr. Barenblatt who sets forth that I certainly do not look upon myself as wilfully violating any rules.

It seems to me it certainly has a place in this proceeding not as a brief, but as the attitude which he took toward the committee and which the committee took toward him. It indicates what his attitude was.

The Court: Yes. But his attitude is not relevant. His attitude might become relevant in case the jury finds him guilty and then his attitude would be a matter that the Court could consider in connection with sentence whether his attitude was contumacious or respectful and so on. That has a bearing on that. But it does not have a bearing on his guilt, on the question of his guilt or innocence.

I am going to rule as I have done, as I did yesterday in another case, that there is no legal right to refuse to answer questions if they are pertinent, of course, merely to—on the ground that they inquire into a person's political beliefs or religious beliefs.

[fol. 123] There are occasions in some courts, for example, where a prospective juror is interrogated on voir dire examination concerning certain beliefs of his. He cannot decline to answer those questions on the ground that he is protected by the First Amendment.

The First Amendment grants the privilege of expressing one's views. It grants the privilege of having beliefs, but it does not grant the privilege of refusing to answer questions.

It is just the converse.

Mr. Wittenberg: Except, sir, if we were to read this we might see what has appeared—what has happened is an attempt to compel.

The Supreme Court has said that neither House is vested with power to compel disclosures. That goes beyond a mere question to speak.

The Court: That is a question of law that you can argue to the Court, it is not a question you can argue to the jury.

Mr. Wittenberg: I shall be bound, of course, by Your Honor's ruling.

The Court: The Court will be glad to hear you on that at the proper time.

You may have the witness omit the reading of the small print.

I was going to suggest this, anyway, Mr. Hitz; this is only by way of suggestion and not mandatory, because it may be [fol. 124] that, because I never like to curtain (sic) counsel's presentation of his own case in his own way, but it seems to me that all that is necessary is to read those parts of the transcript which involve these five questions. The fact that the questions were asked, that the witness declined, that having declined he was directed to answer, because the direction to answer is an essential part of the case; if there is no direction to answer then there is no contempt, and then an (sic) declination after direction.

That is all that you really need.

Mr. Hitz: I think that is true, but there is so little of it left.

The Court: I am not going to curtail you from reading the balance. There isn't too much left. As the witness was reading I got ahead of him, because, of course, you can read faster with your eyes than you can when you are reading out loud and I marked as I went along the matters bearing on each one of the five counts, and there isn't too much else left. I agree with you.

Mr. Hitz: It was my thought that rather than have the jury speculate that there might have been some attempt to answer in portions, also it would show a courteous and respectful treatment of the witness, which I think is well from the Government's point of view to put in.

Since there is not very much more I would like to go on [fol. 125] with that.

The Court: Very well.

Mr. Hitz: I would, however, like to bring this to the attention of all of us so that we can have a clear picture of what took place.

The statement made by Mr. Velde after the insertion here of this legal brief is as follows:

"Mr. Velde: Hereafter, when you decline to answer a question, you may make your declination, in order to save time, on the basis of the statement of objections previously made."

It might possibly be that if this statement were read by anyone in the presence of the witness and it became physically before all of them within the hearing of each, that the statement here, objections previously made, might refer to his legal brief as well as to his previous answers, and I think it might be well to determine whether or not that is true or not, for us to ask the witness whether this became a part of the question and answer that was before all of them or was it inserted here as a physical, mechanical proposition later on by a stenographer so that we can determine what it is that objections previously made in Velde's statement would refer to.

Mr. Wittenberg: I was there. It was received as Number One. The committee said they were reading. As a matter of [fol. 126] fact, Congressman Doyle from California——

The Court: I am wondering, gentlemen, whether or not it would not be better to omit that three line statement of Mr. Velde's?

Mr. Wittenberg: If you do that and then read Mr. Kunzig's statement, is it fair to the defendant?

The Court: Mr. Kunzig's statement is all right.

Mr. Wittenberg: Is that fair to the defendant? The record should also show—you do not show the previous statement.

The Court: Of course, you see, a witness refusing to give an answer, declining to answer questions, does not fortify his position by giving his reasons unless the reasons are legally sound, like declination to answer on the ground that the answer might incriminate the witness. But otherwise if the reasons are not legally sound, it makes no difference what the reasons are.

Mr. Wittenberg: What I am addressing myself to is the fact that Mr. Velde made a remark, then Mr. Kunzig. To read only Mr. Kunzig and then not to read——

Mr. Hitz: I will agree that they both go out.

The Court: I think that perhaps might be a good idea to have them both go out.

Mr. Hitz: And then commence at the top of Page 5811. That would be my suggestion.

[fol. 127] The Court: Very well.

Mr. Wittenberg: There is something else here we might save time about and that is that while he is on there is this portion of Crowley's testimony right at the start with regard to Mr. Barenblatt, two points Mr. Crowley testified with regard to Mr. Barenblatt and at one point, I believe the final witness of the day, also.

The Court: I do not understand you are going to read anything but the defendant's testimony.

Mr. Hitz: I had not planned to.

Mr. Wittenberg: Since they may be relevant, since these are the only two references in this record to Barbeblatt, (sic) they might go not only to pertinency, but also as to what his attitudes were; not in the objection to testify, but generally with regard to the questioning.

I think the testimony of Lucas and Crowley on the same——

The Court: The reason why the Court is admitting the

transcript of the defendant's testimony before the committee is because that is proof of the fact that he was asked certain questions and refused to answer them.

Mr. Wittenberg: Wouldn't you regard a question asked of Mr. Crowley that was referred to in his testimony he is asked do you know a Mr. Crowley.

The Court: No. That is not the question, you see. The question that he refused to answer is did you know Francis [fol. 128] Crowley as a member of the Communist Party, which is entirely different from saying do you know.

Mr. Wittenberg: What I am saying, sir, is that Crowley testified before and this may become germane to certain questions which I think are in the case, testified that he was not a member of the Communist Party.

The Court: If it becomes germane, if it becomes germane on the issue of pertinency the Court will consider it. If it becomes germane on any issue that the defense properly has a right to bring before the jury, why then the defense may read it as part of its case.

Mr. Wittenberg: He has been asked, while they were reading this testimony, they said didn't Mr. Crowley testify this morning that you were.

The Court: I am not going to require the Government to read Crowley's testimony as part of its case. But if you feel that it should be part of your case then I will let you read it as part of the defense case provided it appears proper.

Mr. Hitz: Mr. Wittenberg, you, of course, do not contend that this Barenblatt Exhibit Number One contains what the jury could possibly find was a responsive answer to the question. It is merely a statement of objections as Mr. Barenblatt said it was. Is that not true?

Mr. Wittenberg: No. I am not prepared to say that a witness appearing before a congressional committee may [fol. 129] not be making a perfectly responsive answer to it and the committee recognized that there were constitutional questions involved, they told him.

The Court: I am not going to submit constitutional questions to the jury for determination. There is only one State in the Union where you can argue law to the jury, that is Maryland.

Mr. Wittenberg: I was saying whether or not this was a

responsive, or an attempt to give a responsive answer to the question.

The Court: I hereby rule it was not responsive because the witness, the record shows the witness declined to answer, and that these objections were reasons, really, for not answering and whether the reasons were valid or not is a question of law that the Court has to determine.

Mr. Wittenberg: Suppose I appeared before a committee and I were validly trying to present to the committee a reason why I thought might activate the committee with response to my own answers. In other words, I did not want to be contumacious but I did want to give the committee grounds which I thought might be available to them and they might withdraw the question.

The Court: Oh, yes.

Mr. Wittenberg: I think I would have a right, then, to put that in as indicating my willingness to discuss with the [fol. 130] committee the questions which were being asked.

The Court: If the committee says we refuse to hear you, your reasons, we refuse to hear anything from you, you will, we direct you to answer the question, and the witness says I decline to answer. That is all the Court needs to have before it.

Mr. Wittenberg: These questions I am not going to argue with you, were not repeated after this was accepted into the record.

The Court: I am not going to have that read because that brings in a lot of extracts from legal opinions to the jury and if I let that be read why then, of course, I would have to let Mr. Hitz read a lot of opinions the other way and I am not going to let him do that, either.

Mr. Wittenberg: This occurred with the committee. This did not occur de hors the committee.

The Court: Suppose the committee had allowed you, as counsel, to make a legal argument?

Mr. Wittenberg: That would not be permissible.

The Court: It is the same sort of thing. This was obviously a document prepared by a lawyer—perhaps by you, it is a very well prepared document, it reviews a great deal of authorities in support of your position, but it does not review the authorities that hold the other way.

Well, we will proceed, gentlemen.

[fol. 131] (In Open Court)

By Mr. Hitz:

Q. Mr. Appell, will you commence reading, now, on Page 5811 at the top.

The Witness: "Mr. Barenblatt: May I say at this point, this is not my statement. It is my setting forth of my objections as the question is asked me before the committee. I wish to comply with all the rules——"

The Court: I am going to ask counsel to come back to the bench another moment.

(At the Bench)

The Court: I do not see the relevancy, Mr. Hitz, of the whole discussion of Page 5811.

Mr. Hitz: All right, sir. I certainly do not urge it. My only thought was completeness and if it has no value——

The Court: There has already been declination and there was discussion back and forth. I venture to suggest that you have the reading resume on Page 5812, with the fourth line.

Mr. Hitz: Yes, Your Honor. I will be glad to do that.

(In Open Court)

By Mr. Hitz:

Q. Mr. Appell, it has been determined that we shall begin reading to the jury now beginning Page 5812, the fourth line; will you read there.

[fol. 132] The Witness: "Mr. Kunzig: Have you ever been a member of the Communist Party?"

Mr. Hitz: That is Count Number Two, Your Honor.

The Witness: "I must object to that question on the grounds previously put into the record.

"Mr. Kunzig: You may just say the same grounds and we will understand it to mean this document which is Barenblatt Exhibit No. 1.

"Mr. Barenblatt: Yes, sir; exhibit 1, sir.

"Mr. Velde: All right. Now, Mr. Witness, you are directed to answer that question.

"Mr. Barenblatt: I decline to answer on the basis of the grounds stated in Exhibit 1.

"Mr. Kunzig: Now, you have said that you knew Francis Crowley. Did you know Francis Crowley as a member of the Communist Party?

"Mr. Barenblatt: I must decline to answer that question, sir, on the grounds as stated in my objections in Exhibit 1."

Mr. Hitz: That is Count Three, Your Honor.

The Witness: "Mr. Kunzig: Now, you don't have to do it. You said you must. Do you decline to answer?

"Mr. Barenblatt: I do, sir.

"Mr. Kunzig: I respectfully ask that he be directed on each of these questions, Mr. Chairman.

[fol. 133] "Mr. Velde: Yes. You are directed to answer the question propounded by counsel.

"Mr. Barenblatt: The same question; I object on the grounds as previously stated in the exhibit.

"Mr. Kunzig: Do you decline to answer?

"Mr. Barenblatt: I decline to answer.

"Mr. Kunzig: Were you ever a member of the Haldane Club of the Communist Party while at the University of Michigan?"

Mr. Hitz: That is Count Four, Your Honor.

The Witness: "Mr. Barenblatt: I decline to answer on the grounds as previously stated.

"Mr. Velde: You are directed to answer that question, Mr. Witness.

"Mr. Barenblatt: Sir, I respectfully decline to answer on the basis of the grounds as previously stated.

"Mr. Kunzig: Were you a member while a student of the University of Michigan Council of Arts, Sciences and Professions?"

Mr. Hitz: That is Count Five, Your Honor.

The Witness: "Mr. Barenblatt: I again decline to answer on the basis of the objections made in Exhibit 1.

"Mr. Velde: You are again directed to answer that ques-
[fol. 134] tion, Mr. Barenblatt.

"Mr. Barenblatt: I must decline to answer these questions, sir, on the basis of the grounds as previously stated.

"Mr. Kunzig: Let the record show, of course, that the National Council of Arts, Sciences, and Professions is a cited Communist-front organization.

"Now, I want to go back to one point, Mr. Barenblatt. Would you please give the committee a brief resumé of your employment background?

The Court: I wonder if there is any purpose in reading that, Mr. Hitz?

Mr. Hitz: From here on?

The Court: From here on toward the middle of Page 5813 where the witness describes his various appointments.

Mr. Hitz: I do not think that has any relevancy in particular, Your Honor.

The Court: I would think, then, resume reading at the middle of 5813, where it says Mr. Kunzig continuing.

The Witness: "Mr. Kunzig: I want to ask one thing further, just so the record can be completely clear——"

The Witness: Interruption.

"Mr. Barenblatt: Yes, sir.

"Mr. Kunzig: (continuing). And so there can be no doubt in the written record at all. You have not at any time [fol. 135] this afternoon during your testimony before this committee in any way sought to invoke or raise the Fifth Amendment whatsoever up to the present moment, have you?

"Mr. Barenblatt: You are entirely correct, sir.

"Mr. Velde: Mr. Walter?

"Mr. Walter: No.

"Mr. Velde: Mr. Doyle?

"Mr. Doyle: Mr. Chairman, I think the record should show that at this time there are pending before the United States Congress several active bills dealing with the question of subversive activities, dealing with the question of the Communist Party, dealing with the question of the responsibility that we have as a congressional committee under Public Law 601. I am sure that is in the record, and I would like the record of this hearing of this committee to especially show it——

"Mr. Velde: Yes, I think——

"Mr. Doyle: (continuing) And that this witness and

these other witnesses could help us in line with our Public Law 601——"

Mr. Wittenberg: Would the Court hear me in view of the fact that Your Honor has limited the reading to certain matter?

[fol. 136] The Court: I do not hear you.

Mr. Wittenberg: Does Your Honor not agree with me, in view of the exclusion of the previous matter, that these statements do not properly belong?

The Court: They are not proper to go before the jury.

Mr. Hitz: I think that is probably true. They do not bear on any issues the jury has to determine. I won't oppose a motion to strike that part that has already been read.

The Court: Very well.

Wittenberg: We so move.

The Court: The motion is granted.

Mr. Hitz: May Mr. Wittenberg indicate where he thinks the motion to strike should first be effective?

Mr. Wittenberg: Stopping after the line of Mr. Barenblatt, "You are entirely correct, sir." Which is right following Mr. Kunzig's question, that you have not at any time during your testimony sought to invoke or raise the Fifth Amenment (sic) whatsoever up to the present time.

Mr. Hitz: You would like to strike all after Mr. Barenblatt's answer.

Mr. Wittenberg: Statement, "You are entirely correct."

Mr. Hitz: We have no objection to that motion to strike.

The Court: The motion is granted.

Mr. Hitz: Now, Mr. Appell, we will see if there is anything worth adding at the conclusion of this. I do not [fol. 137] think any of the remaining testimony of Mr. Barenblatt bears upon jury issues.

The Court: I do not think so.

Mr. Wittenberg: We do not ask that any further of it be read.

The Court: Very well.

By Mr. Hitz:

Q. Mr. Appell, was that all of the testimony that Mr. Barenblatt gave, such of it as is contained on 5813 and 5814

which we are omitting? He did not testify again, in other words, did he?

A. Not to my knowledge.

Q. Did you make an investigation of the Michigan Council of Arts, Sciences and Professions?

A. It was known as the University of Michigan Chapter.

Q. The University of Michigan Chapter of it?

A. I did.

Mr. Hitz: I have no further questions of Mr. Appell.

The Court: Any cross-examination?

Mr. Wittenberg: No cross-examination.

The Court: You may step down.

(Witness left stand.)

Mr. Hitz: Your Honor, I have nothing further for the jury. I wonder if I could be heard in the absence of the jury on one subject which——

[fol. 138] The Court: We will excuse the jury for the day. Ladies and gentlemen of the jury, your presence will not be needed any further today, so that you may leave at this time and please be back in your seats in the jury box a few minutes before ten o'clock tomorrow morning because when we recess a little later we will recess until ten o'clock tomorrow morning.

(Thereupon, at 3:35 o'clock p.m. the jurors withdrew.)

Mr. Hitz: It is in the nature of evidence. I need to ask Mr. Appell a couple of questions.

The Court: Let the record show that the hearing out of the presence of the jury is being resumed.

Mr. Hitz: Yes, Your Honor.

Thereupon DONALD T. APPELL resumed the witness stand and, having been previously duly sworn, was further examined and testified as follows:

Q. Mr. Appell, did you make an investigation of the University of Michigan Chapter of the Council of Arts, Sciences and Professions?

A. I did.

Q. What did you learn with respect to any connections that that organization had with any subversive organization if any?

Mr. Wittenberg: That is objected to as being both hearsay [fol. 139] and calling for the conclusion of the witness.

The Court: It is obviously hearsay and therefore that would not be admissible to prove any fact concerning this organization, and if the purpose of the testimony were to prove any fact concerning the organization the Court would exclude it.

On the other hand, if the purpose of the Government is to merely establish the fact that the committee had reason to believe, or grounds for investigating that organization, if that is the purpose of the testimony, then the Court would admit it.

The Court would like to ascertain from you, Mr. Hitz, as to what the purpose of this question is?

Mr. Hitz: The purpose is to establish that the committee, the Un-American Activities Committee had some information concerning subversive infiltration of this organization such that it desired to ask this man questions concerning it and membership in it.

The Court: In other words, it goes to the issue of pertinency.

Mr. Wittenberg: Yes, Your Honor.

The Court: I am going to admit the evidence soley (sic) for that limited purpose, it being understood that it is not being admitted as proof of the fact, but merely as proof of what reason the committee had for asking questions con- [fol. 140] cerning the organization. Just as we have occasion to admit hearsay testimony to prove reasonable ground for making an arrest, to take an example out of a different field, and yet that hearsay testimony would not be proof of the defendant's guilt.

It is along the same line that I am admitting that testimony and only for that limited purpose. You may answer.

The Witness: The University of Michigan Chapter of the Arts, Sciences and Professions was a campus organization which was required to register with the Dean of Men at the University of Michigan.

From the records of the Dean of Men at the University of Michigan the committee obtained the membership list of the University of Michigan Chapter of the Arts, Sciences and Professions and from an investigation of the individuals that were officers and directors of that organization the committee determined that it was under the control of a majority of its—a majority of its officers were members of subversive organizations of the Communist Party.

The Court: You mean that the committee had reason to believe. The committee cannot make any determination, it is not a court.

The Witness: That is right, sir. And the University of Michigan, after finding that a great many of the members of the University of Michigan Chapter of the Arts, Sciences and Professions were comprised of graduate students or [fol. 141] faculty members or townspeople of the city of Ann Arbor declared it not to be a student organization and ruled it off of the campus as a student organization which it has been originally recognized as.

Mr. Hitz: No further questions, Your Honor, of this witness.

Mr. Wittenberg: No cross.

Mr. Hitz: May he be excused?

The Court: I think he—he is not leaving the city, is he?

Mr. Hitz: No, Your Honor.

The Court: He may be excused subject to call. He should be on hand in case either side wants him.

Do you have anything further, Mr. Hitz?

Mr. Hitz: Would Your Honor indicate whether the Court will sit any longer this afternoon?

The Court: It was not the Court's intention unless you have something that is very brief.

Mr. Hitz: I do not have. Unless the Court is not going to sit, I prefer not to announce that we have rested, but I expect to rest the first thing in the morning.

The Court: I see. You will make copies of those exhibits available to defense counsel so that defense counsel can read them overnight?

Mr. Hitz: I will, Your Honor.

[fol. 142] The Court: We will recess until ten o'clock tomorrow morning.

(Thereupon at 3:40 o'clock p.m. the trial was adjourned to reconvene at 10:00 o'clock a.m., Thursday, March 15, 1956.)

(Reporter's certificate to foregoing transcript omitted in printing.)

[fol. 145] PROCEEDINGS

The Deputy Clerk: The United States v. Lloyd Barenblatt.

Mr. Wittenberg: Might we come to the bench before the jury comes in?

The Court: Yes.

(At the bench:)

DEFENDANT'S WAIVER OF TRIAL BY JURY AND ACCEPTANCE THEREOF

Mr. Wittenberg: Your Honor, we have been considering the matter here and we feel that all things considered, in view of the reservations with regard to what could go to the jury, and the simple issue that could go to the jury, that we might save the Court's time, and a considerable amount of ours, if we were from now on waiving the jury and proceeding before Your Honor and allow you to determine the entire issue of fact.

The Court: Very well.

Mr. Hitz: We would agree to that.

The Court: Very well. Suppose you sign the usual waiver.

Mr. Wittenberg: Should I have the defendant sign that?

The Court: Yes. We have a blank form.

(Counsel having returned to trial tables, and the jury now being in the box:)

[fol. 146] The Court: Lloyd Barenblatt, will you rise, please.

You understand that you are entitled to a trial by jury.

The Defendant: Yes, sir.

The Court: And is the Court correctly informed that it is your desire at this time to waive your right to a trial by jury and to have the case proceed as a trial by the Court?

The Defendant: Yes, Your Honor.

The Court: The Court will accept the waiver.

Ladies and gentlemen of the jury, the defendant has waived his right to a trial by jury and desires to have this case proceed by trial by the Court alone. Under the circumstances you are relieved of further responsibility in this case and you may resume your seats in the courtroom.

(The jurors accordingly withdrew from the box and took seats in the courtroom.)

The Court: I wish to state to counsel that I have re-read very carefully the Bryan case. Of course, the majority opinion in that case is a little difficult to comprehend, because they refused to overrule the Christoffel case, and I don't think there is any difference in principle between the Christoffel case and the Bryan case, because the distinction between perjury before a Congressional committee and [fol. 147] contempt before a Congressional committee is a factual distinction only, not in principle.

However, the Bryan case is the later of the two cases. So to my mind it overruled the Christoffel sub silentio. Moreover, I am impressed by the fact that although there were several opinions in this case, none of the Justices dissented on this particular point, so that there was no difference of opinion on this particular point.

I might candidly say I am impressed by Mr. Justice Jackson's opinion, who said "We ought in all frankness overrule the Christoffel case, because that is what we are doing, and we ought to say we are doing it."

I have always been a great admirer of the way Mr. Justice Jackson's intellect worked.

But anyway, so far as this Court is concerned, it is bound by the rule of law or the law as laid down by the Supreme Court or the Court of Appeals. Therefore I shall hold that the question of quorum is not in issue in this case at this trial. Of course I might add that there has been prima facie evidence of a quorum.

I might also say that overnight the Court has read those

passages in the exhibits bearing on the issue of pertinency on which the Government relies.

Very well. You may proceed, gentlemen.

Mr. Hitz: The Government rests, Your Honor.

[fol. 148] Mr. Wittenberg: The defendant rests.

. . . . . .

[fol. 189] FINDING BY THE COURT

The Court: . . .

. . . . . .

[fol. 192] In the light of all the evidence, the Court finds the defendant guilty on all counts.

. . . . . .

[fol. 199] SENTENCE

The Court: Let the defendant come forward.

Lloyd Barenblatt, is there anything you would like to say before sentence is imposed?

The Defendant: I have nothing to say, Your Honor.

The Court: Lloyd Barenblatt, it is the judgment of this Court that you be imprisoned in an institution to be designated by the Attorney General of the United States for a term of six months and that you be fined $250.00, and that you stand committed until the fine is paid.

Mr. Wittenberg: Will Your Honor continue the bail in which the defendant now is, pending appeal?

[fol. 200] The Court: Yes indeed. I don't believe the Government objects to that.

Mr. Hitz: It is our practice not to object to that in this type of case.

The Court: The defendant may remain on bail pending appeal.

(Accordingly at 2:30 p.m. the instant proceedings were concluded.)

(Reporter's certificate to foregoing transcript omitted in printing.)

[fol. 202] GOVERNMENT'S EXHIBIT No. 2

H. Res. 5

[Rubber Stamp—Filed Apr 27 1956 Harry M. Hull, Clerk]

In the House of Representatives, U. S.,
January 3, 1953.

Resolved, That the following be, and they are hereby, adopted as the rules of the Eighty-third Congress:

• • • • • • • •

[fol. 209] RULE X

STANDING COMMITTEES

1. There shall be elected by the House, at the commencement of each Congress, the following standing committees:

• • • • • • • •

[fol. 210] (q) Committee on Un-American Activities, to consist of nine Members.

• • • • • • • •

[fol. 211] RULE XI

POWERS AND DUTIES OF COMMITTEES

All proposed legislation, messages, petitions, memorials, and other matters relating to the subjects listed under the standing committees named below shall be referred to such committees, respectively:

• • • • • • • •

[fol. 225] 17. Committee on Un-American Activities.

(a) Un-American activities.

(b) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (1) the extent, character, and [fol. 226] objects of un-American propaganda activities in the United States, (2) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (3) all other questions in

relation thereto that would aid Congress in any necessary remedial legislation.

The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

• • • • • • •

[fol. 272] GOVERNMENT'S EXHIBIT No. 4

House Clerk's Certificate (omitted in printing).

[fol. 273]

83D CONGRESS *2d Session*	HOUSE OF REPRESENTATIVES	REPORT No. 2457

PROCEEDINGS AGAINST LLOYD BARENBLATT

JULY 23, 1954.—Ordered to be printed

Mr. VELDE, from the Committee on Un-American Activities submitted the following

REPORT

CITING LLOYD BARENBLATT

The Committee on Un-American Activities, as created and authorized by the House of Representatives through the

enactment of Public Law 601, section 121, subsection (q) (2) of the 79th Congress, and under House Resolution 5 of the 83d Congress, caused to be issued a subpena to Lloyd Barenblatt, Shady Creek Road, Pleasant Valley, Poughkeepsie, N. Y. The said subpena directed Lloyd Barenblatt to be and appear before said Committee on Un-American Activities at the hour of 10:30 a. m., on June 28, 1954, then and there to testify touching matters of inquiry committed to said committee, and not to depart without leave of said committee. The subpena served upon said Lloyd Barenblatt is set forth in words and figures, as follows:

> By authority of the House of Representatives of the Congress of the United States of America, to George E. Cooper: You are hereby commanded to summon Lloyd Barenblatt to be and appear before the Committee on Un-American Activities, or a duly authorized subcommittee thereof, of the House of Representatives of the United States, of which the Hon. Harold H. Velde is chairman, in their chamber in the city of Washington, room 225-A, Old House Office Building, on Monday, June 28, 1954, at the hour of 10:30 a. m., then and there to testify touching matters of inquiry committed to said committee; and he is not to depart without leave of said committee.
>
> Herein fail not, and make return of this summons.
>
> Witness my hand and the seal of the House of Representatives of the United States, at the City of Washington, this 28th day of May, 1954.
>
> HAROLD H. VELDE, *Chairman.*
>
> Attest: LYLE O. SNADER,
> *Clerk, House of Representatives of the United States.*
>
> [SEAL]

The said subpena was duly served as appears by the return made thereon by George E. Cooper, investigator, who was duly authorized to serve the said subpena. The return of the service by the said George E. Cooper, being [fol. 274] endorsed thereon, is set forth in words and figures, as follows:

Subpena for Lloyd Barenblatt before the Committee or Un-American Activities for the House. Served in person Friday, June 4, 1954, 11:15 a. m. at his home, Shady Creek Rd., Pleasant Valley, Poughkeepsie, N. Y.

GEORGE E. COOPER,
Investigator, House of Representatives.

The said Lloyd Barenblatt, pursuant to said subpena and in compliance therewith, appeared before the said committee on June 28, 1954, to give such testimony as required under and by virtue of Public Law 601, section 121, subsection (q) (2) of the 79th Congress, and under House Resolution 5 of the 83d Congress. The said Lloyd Barenblatt having appeared as a witness and having been asked the questions, namely:

Are you now a member of the Communist Party?

Have you ever been a member of the Communist Party?

Now, you have said that you knew Francis Crowley. Did you know Francis Crowley as a member of the Communist Party?

Were you ever a member of the Haldane Club of the Communist Party while at the University of Michigan?

Were you a member while a student of the University of Michigan Council of Arts, Sciences, and Professions?

which questions were pertinent to the subject under inquiry, refused to answer such questions; and as a result of Lloyd Barenblatt's refusal to answer the aforesaid questions, your committee was prevented from receiving testimony and information concerning a matter committed to said committee in accordance with the terms of the subpena served upon the said Lloyd Barenblatt.

The record of the proceedings before the committee on June 28, 1954, during which the said Lloyd Barenblatt refused to answer the aforesaid questions pertinent to the subject under inquiry, is set forth in fact as follows:

UNITED STATES HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON
UN-AMERICAN ACTIVITIES,
Washington, D. C., Monday, June 28, 1954.

PUBLIC HEARING

A subcommittee of the Committee on Un-American Activities, continued its hearing at 3:30 p. m., on June 28, 1954, in the caucus room, Old House Office Building, the Honorable Harold H. Velde, chairman, presiding. During the interrogation of another witness, Hon. Harold H. Velde, committee chairman, appointed a subcommittee to be composed of himself as chairman, and Representatives Francis E. Walter, Morgan M. Moulder, and Clyde Doyle. At a point preceding the testimony of Lloyd Barenblatt, Representative Morgan M. Moulder left the room, thus leaving a quorum of the subcommittee present, consisting of Representatives Harold H. Velde, chairman, Francis E. Walter, and Clyde Doyle.

* * * * * * *

Mr. Velde. Mr. Reporter, for the purposes of this hearing, let the record show that I have appointed Mr. Walter, Mr. Moulder, Mr. Doyle, and myself as chairman.

* * * * * * *

Mr. Kunzig. Mr. Lloyd Barenblatt.

Mr. Velde. In the testimony you are about to give before this subcommittee do you solemnly swear you will tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Barenblatt. I do.

Mr. Velde. Be seated.

NOTE: Petitioner's testimony of June 28, 1954, before the House Committee on Un-American Activities (including the document entitled "Barenblatt Exhibit No. 1," consisting of petitioner's formal statement of his objections to the Committee's questions) follows at this point. Since this testimony (including this document) also appears in Gov-

ernment Exhibit 8 (the transcript of the Hearings of that date) and is printed elsewhere herein (infra, pp. 218-241), it is omitted from the printing at this point.

• • • • • • •

[fol. 284] Because of the foregoing, the said Committee on Un-American Activities was deprived of answers to pertinent questions propounded to the said Lloyd Barenblatt relative to the subject matter which, under Public Law 601, section 121, subsection (q) (2) of the 79th Congress, and under House Resolution 5 of the 83d Congress, the said committee was instructed to investigate, and the refusal of the witness to answer the questions, namely:

> Are you now a member of the Communist Party?
>
> Have you ever been a member of the Communist Party?
>
> Now, you have said that you knew Francis Crowley. Did you know Francis Crowley as a member of the Communist Party?
>
> Were you ever a member of the Haldane Club of the Communist Party while at the University of Michigan?
>
> Were you a member while a student at the University of Michigan Council of Arts, Sciences and Professions?

which questions were pertinent to the subject under inquiry, is a violation of the subpena under which the witness had previously appeared, and his refusal to answer the aforesaid questions deprived your committee of necessary and pertinent testimony and places the said witness in contempt of the House of Representatives of the United States.

[fol. 285] GOVERNMENT'S EXHIBIT No. 5

H. Res. 666

In the House of Representatives, U. S.,
July 23, 1954.

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Un-American

Activities of the House of Representatives as to the refusal of Lloyd Barenblatt to answer questions before the said Committee on Un-American Activities, together with all of the facts in connection therewith, under seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that the said Lloyd Barenblatt may be proceeded against in the manner and form provided by law.

Attest:

/s/ LYLE O. SNADER
Clerk.

[SEAL]

[Rubber Stamp—Filed Apr 27 1956 Harry M. Hull, Clerk]

[fol. 286] GOVERNMENT'S EXHIBIT No. 6

JOSEPH W. MARTIN, JR.
14TH DIST., MASSACHUSETTS

THE SPEAKER'S ROOMS
HOUSE OF REPRESENTATIVES
WASHINGTON, D. C.

The United States Attorney,
District of Columbia.

The undersigned, the Speaker of the House of Representatives of the United States, pursuant to House Resolution 666, Eighty-third Congress, hereby certifies to you the refusal of Lloyd Barenblatt to answer questions before the Committee on Un-American Activities of the House of Representatives conducting an investigation authorized by Public Law 601, Seventy-ninth Congress, and House Resolution 5 of the Eighty-third Congress, as is fully shown by the certified copy of the report (House Report 2457) of said committee which is hereto attached.

Witness my hand and the seal of the House of Representatives of the United States, at the City of Washington, District of Columbia, this twenty-third day of July 1954.

/s/ JOSEPH W. MARTIN, JR.
Speaker of the House of Representatives

Attest

/s/ LYLE O. SNADER
Clerk of the House of Representatives

[SEAL]

[Rubber Stamp—Filed Apr 27 1956 Harry M. Hull, Clerk]

[fol. 287] GOVERNMENT'S EXHIBIT No. 7

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HEARINGS

BEFORE THE

COMMITTEE ON UN-AMERICAN ACTIVITIES

HOUSE OF REPRESENTATIVES

EIGHTY-THIRD CONGRESS

FIRST SESSION

FEBRUARY 25, 26, AND 27, 1953

Printed for the use of the Committee on Un-American Activities

[fol. 288]

COMMUNIST METHODS OF INFILTRATION (EDUCATION)

WEDNESDAY, FEBRUARY 25, 1953

UNITED STATES HOUSE OF REPRESENTATIVES,
COMMITTEE ON UN-AMERICAN ACTIVITIES,
Washington, D.C.

The Committee on Un-American Activities met, pursuant to notice, at 10:35 a. m., in the caucus room, Old House Office Building, Hon. Harold H. Velde (chairman) presiding.

Committee members present: Representatives Harold H. Velde (chairman), Bernard W. Kearney, Donald L. Jackson, Kit Clardy, Gordon H. Scherer, Francis E. Walter, Morgan M. Moulder, Clyde Doyle, and James B. Frazier, Jr.

Staff members present: Frank S. Tavenner, Jr., committee counsel; Thomas W. Beale, Sr., chief clerk; Louis J. Russell, chief investigator; Raphael I. Nixon, director of research; Donald T. Appell and Earl L. Fuoss, investigators.

Mr. Velde. The committee will come to order.

Let the record show that all of the committee members are present and a quorum of the full committee is present for the purposes of this hearing.

Mr. Counsel, do you have a witness?

Mr. Tavenner. I don't see the witness present. Mr. Robert Gorham Davis.

(Discussion off the record.)

Mr. Velde. Mr. Davis, will you raise your right hand?

In the testimony you are to give before this committee do you solemnly swear you will tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Davis. I do.

Mr. Velde. Mr. Davis, it is our understanding that you are a member of the teaching profession. In opening this hearing, it is well to make clear to you and others just what the nature of this investigation is.

From time to time, the committee has investigated Communists and Communist activities within the entertainment, newspaper, and labor fields, and also within the professions and the Government. In no instance has the work of the committee taken on the character of an investigation of entertainment organizations, newspapers, labor unions, the professions, or the Government, as such, and it is not now the purpose of this committee to investigate education or

educational institutions, as such. The committee will follow its long-established policy of investigating Communists and Communist activities wherever it has substantial evidence of its existence.

[fol. 289] When investigating Communists and Communist activities within certain labor unions, the committee was met with the charge by alarmists and partisans within that field that the committee was a group of Fascists and the enemy of labor, and that the real purpose of the investigation was to destroy labor unions. Similar and equally unfounded charges have been made with regard to this hearing. In pursuing its work within the field of labor, the committee carefully refrained from taking any part in any internal disputes within labor or any disputes between employers and employees and confined its activities to the ascertainment and identification of leaders in the labor unions who were members of the Communist Party and were using their influence to promote the objectives of the Communist Party within the field of labor, and to the character, extent, and objects of their Communist Party activities. The work of the committee in this respect has met with such growing success that many labor unions are now actively engaged in eliminating from positions of influence union officials known to be members of the Communist Party and engaged in Communist activities.

The purpose of the committee in investigating Communists and Communist activities within the field of education is no greater and no less than its purpose in investigating Communists and Communist activities within the field of labor or any other field.

The committee is charged by the Congress with the responsibility of investigating the extent, character, and objects of un-American propaganda activities in the United States, the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution and all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

It has been fully established in testimony before congressional committees and before the courts of our land that

the Communist Party of the United States is part of an international conspiracy which is being used as a tool or weapon by a foreign power to promote its own foreign policy and which has for its object the overthrow of the governments of all non-Communist countries, resorting to the use of force and violence, if necessary. This organization cannot live except by the promulgation and diffusion of subversive and un-American propaganda and in the view of this committee every person who remains a member of it is contributing to the ultimate accomplishment of its objectives. Communism and Communist activities cannot be investigated in a vacuum. The investigation must, of necessity, relate to individuals and, therefore, this morning the committee is calling you as a person known by this committee to have been at one time a member of the Communist Party.

The question is sometimes asked whether it is necessary to call as witnesses those who are no longer members of the Communist Party. It is quite obvious for a number of reasons that the answer should be "Yes." Such witnesses add immeasurably to the sum total of the knowledge of the character, extent, and objects of Communist activities. The testimony of former Communist Party members resulted virtually in immobilizing the Communist Party in Hollywood. These witnesses considered it their patriotic duty to answer under oath questions relating to their knowledge [fol. 290] of Communist infiltration into the organizations of which they had been members, and to their knowledge of other Communist Party activities. Witnesses from the Screen Writers' Guild, the directors' guilds, labor unions, the legal profession, the medical profession, and other groups have made a great contribution to the defense of their country by disclosing to this committee facts within their knowledge.

Former Communist Party membership, in the view of the committee, should not be held against an individual whose testimony admitting former Communist Party membership has that character of trustworthiness which convinces one that he has completely and finally terminated his Communist Party membership and has been given in all good

faith. It is of great aid in determining who remain in the Communist Party to ascertain who have left it.

The committee was greatly concerned with the evidence developed in the Hollywood hearings with respect to the type of "thought control" practiced by the Communist Party upon its members. Screen writers were told how and what they should write. The testimony of Budd Schulberg and Edward Dmytryk demonstrate the point as clearly as laboratory experiments would prove a chemical reaction. The same influence was found to exist in the field of art and music. An objective study of this testimony will lead to the inescapable conclusion that it is the Communist Party which is the enemy of academic freedom.

The committee is equally concerned with the opportunities that the Communist Party has to wield its influence upon members of the teaching profession and students through Communists who are members of the teaching profession. Therefore, the objective of this investigation is to ascertain the character, extent and objects of Communist Party activities when such activities are carried on by members of the teaching profession who are subject to the directives and discipline of the Communist Party.

Proceed, Mr. Tavenner.

Testimony of Robert Gorham Davis

Mr. Tavenner. Mr. Davis, will you state your full name, please?

Mr. Davis. Robert Gorham Davis.

Mr. Tavenner. Now when and where were you born, Mr. Davis?

Mr. Davis. In Cambridge, Mass., June 8, 1908.

Mr. Tavenner. How are you now employed?

Mr. Davis. I teach at Smith College.

Mr. Frazier. Mr. Chairman.

Mr. Velde. Mr. Frazier.

Mr. Frazier. I want to ask Mr. Davis whether or not he wants to be represented by counsel. I think we should ask him—or whether he had counsel.

Mr. Velde. All right. Ascertain that, Mr. Counsel.

Mr. Tavenner. Do you have counsel present with you in the hearing room?

Mr. Davis. No; I do not.

Mr. Tavenner. It is the practice of the committee to encourage the use of counsel by witnesses if they desire. So I would like to ask you if you desire counsel present?

Mr. Davis. No; I do not.

[fol. 291] Mr. Tavenner. Will you state to the committee, please, what your educational training has been?

Mr. Davis. I was educated in the public schools of Cambridge; went to Harvard as a scholarship student in the class of '29; received my master's degree in 1930; returned to Harvard for further graduate work in 1933.

Mr. Tavenner. How long did you remain at Harvard in 1933, when you went there in 1933?

Mr. Davis. I taught 10 years until 1943.

Mr. Tavenner. I want to ask you at this stage whether you object to the cameras, the photographs that are being taken, and I believe the movies which are being taken?

Mr. Davis. No; I do not.

Mr. Clardy. You understand you have a perfect right to do so if you wish?

Mr. Davis. Yes.

Mr. Tavenner. Will you state, please, what your employment has been since the completion of your education?

Mr. Davis. I taught at Rensselaer Polytechnic Institute from 1930 to 1933; was an assistant at Harvard from 1933 to 1934; an instructor from 1934 to 1940; a faculty instructor from 1940 to 1943. I went to Smith as a visiting lecturer and was made an associate professor in 1945 and full professor in 1952.

Mr. Tavenner. Professor Davis, are you now a member of the Communist Party?

Mr. Davis. I am not.

Mr. Tavenner. Have you ever been a member?

Mr. Davis. Yes.

Mr. Tavenner. Will you tell the committee, please, the circumstances under which you became a member; how long you remained a member; and the circumstances under which you left the party?

Mr. Davis. I joined the Communist Party in January of 1937. I left the Communist Party in the fall of 1939, after the pact between the Germans and the Russians.

Mr. Tavenner. Since 1939 have you consistently been an opponent of the Communist Party?

Mr. Davis. I have.

Mr. Tavenner. Now will you state more in detail the circumstances under which you became a member of the party?

Mr. Davis. Do you wish to know the influences that led me to join?

Mr. Tavenner. Yes. I think we should have the entire picture for the benefit that it may be to others.

Mr. Davis. Well, I should say that ideologically there were three elements: First, the fact of the depression. To my generation it seemed intolerable that men should be unemployed; that food and cotton should be destroyed while people were hungry in a country as advanced technologically as the United States, and with such tremendous natural resources. We sought to understand the reason for the depression, for the waste of human and natural resources, and were led because of the spirit of the thirties to concern ourselves with the Marxist explanation.

One reason why Marxism appealed to my generation is because we were products of the twenties, educationally—a period of uncertainty and skepticism. Marxism seemed to offer a positive solution—an affirmative philosophy. We [fol. 292] also had been taught that the First World War accomplished nothing despite the 4 years of suffering and slaughter. We were determined that another fruitless war of that kind should not occur.

Finally, we were very much aware of the growing menace of Hitlerism, and it seemed that Hitlerism could be stopped internationally, and a developing Fascist movement, or what might turn into a Fascist movement, in this country, could be stopped only by organizing a very broad, united front—and this the Communist Party purported to do. They did seem to be taking the lead against Hitlerism.

As you remember, this was the period of the movement for collective security in the League of Nations. This was also the period of the Spanish Civil War, when the democracies seemed to be fighting against the armed forces of Hitler and Mussolini in Spain.

All these influences converging made me feel before I

went into the party that it was my idea to aline myself with this leadership.

I discovered in the 2 years which followed that I had made a mistake, but my break did not come finally until after the Hitler-Molotov pact, which initiated the Second World War.

I left then not only because the shift of the line led me into a position which was politically and morally intolerable, but also because I had had such experience of the intrigues and duplicity that are inseparable from Communist Party membership with the requirement that one critically defend the Soviet Union, that as a person of morality and sincerity I could remain in that position no longer.

I not only broke with the party, but increasingly in the years that have followed have I felt it necessary to fight the influence of the Communist Party in those areas where I could be most effective.

Mr. Clardy. And you regard your appearance here today as falling in that category, I take it?

Mr. Davis. Yes. It is an unpleasant duty, but one I feel I must accept.

Mr. Tavenner. Did you have the feeling during the period of your membership in the Communist Party that the Communist Party was being used as a tool by a foreign power for the advancement of its own foreign policy?

Mr. Davis. That was less clear at the time because the Russian policy then—the policy of collective security to which I refer—seemed an effective policy against fascism; and, therefore, not only did I accept it, but as you know, many liberals and progressives were ready at that time to unite with the Communist Party because it did seem to be working for peace and against fascism.

Mr. Tavenner. Did your view change as a result of subsequent events?

Mr. Davis. Yes. The shift of policy after 1939 and the rapidity with which the Communist Party in this country fell in line with the Russian policy, even though they didn't understand it, made it quite clear that they were acting for the Soviet Union; that they were in a certain sense Soviet nationalists and not working for the broader interests of the American people.

Mr. Tavenner. I believe you stated that you became a member of the Communist Party in September of 1937?

Mr. Davis. No. I believe it was January.

Mr. Tavenner. In January of 1937?

[fol. 293] Mr. Davis. Sometime in the middle of that winter.

Mr. Tavenner. How were you employed at that time?

Mr. Davis. I was teaching at Harvard.

Mr. Tavenner. What type of a group of Communists were you assigned to upon joining the party?

Mr. Davis. It was a very small group. I think the active members were no more than 6 or 7 at that time and they comprised 2 or 3 persons connected with Harvard and some townspeople.

Mr. Tavenner. Was it the type of an organization which has been frequently referred to as a neighborhood group?

Mr. Davis. No. I think it had a rather more special connection than that. I think most of the people in it were professionals, or the wives of professionals in academics.

Mr. Tavenner. How long did you remain a member of that particular group?

Mr. Davis. That is the only group I ever belonged to, but it changed its character after a few months.

Mr. Tavenner. Will you explain that, please?

Mr. Davis. Because of the temper of the time more teachers were coming into the Communist Party and, therefore, the group was made exclusively a Harvard teachers' or graduate student group.

Mr. Kearney. How many members were in that group when you first joined?

Mr. Davis. I remember at the first meeting I went to—it is a very dim image now, but as I say, I don't think there were more than 7 or 8, or 6 or 7 people there.

Mr. Kearney. Did the membership increase as time went on?

Mr. Davis. It increased, but I don't believe that it ever comprised more than 15. I would say that was the maximum.

Mr. Kearney. Was the membership of this organization that you at that time joined—were they mostly confined to

membership in the neighborhood surrounding Harvard, with Harvard teachers?

Mr. Davis. As I say, they were—after a few months they became either exclusively Harvard teachers or graduate students at Harvard, or fellows.

Mr. Moulder. Mr. Chairman, you asked him to what group he was assigned, Mr. Kearney. Could you elaborate on that? Did you join somewhere else or did you just join that group?

Mr. Davis. What I did was talk to a person whom I assumed to be a Communist Party member, and he invited me to the meeting.

Mr. Kearney. He invited you to the Communist Party meeting?

Mr. Davis. Yes.

Mr. Kearney. And you assumed that he was a member?

Mr. Davis. Yes.

Mr. Kearney. Did you later discover that he was a Communist?

Mr. Davis. Yes.

Mr. Tavenner. What was his name?

Mr. Davis. I am not certain at this distance which of two persons it was.

Mr. Tavenner. Were both of the persons that you have in mind persons known to you to be members of the Communist Party?

Mr. Davis. Yes.

Mr. Tavenner. Then I will ask you to give the names of both of them.

[fol. 294] Mr. Davis. Louis Harap.

Mr. Tavenner. Will you spell the last name, please?

Mr. Davis. H-a-r-a-p.

Mr. Tavenner. And I think you should spell the first name.

Mr. Davis. L-o-u-i-s.

Mr. Tavenner. If you know what his subsequent connection was with the Communist Party I think you should tell us. That is, if you know of your own knowledge whether he has remained in the Communist Party for any definite period of time or whether he withdrew from the party at any time, I would like you to so state.

Mr. Davis. I have no first-hand knowledge. I have read writing by him in recent years which would suggest that his tendency had remained the same.

Mr. Kearney. Is he a professor at Harvard?

Mr. Davis. No; he was not. He was employed in a very minor capacity as librarian, I believe, of the philosophy library.

Mr. Kearney. Is he still connected in that position?

Mr. Davis. No. He left Harvard many years ago.

Mr. Kearney. Do you know what he is doing now?

Mr. Davis. I believe he is editor of a magazine.

Mr. Kearney. Do you know the name of the magazine?

Mr. Davis. It is the Jewish Affairs, I believe. Some such magazine.

Mr. Velde. Will you spell that, please?

Mr. Davis. The name of the magazine?

Mr. Velde. Yes.

Mr. Davis. Yes. J-e-w-i-s-h A-f-f-a-i-r-s.

Mr. Kearney. He is the editor, you think?

Mr. Davis. Yes. I think he is editor.

Mr. Kearney. Do you know where that is published?

Mr. Davis. In New York.

Mr. Tavenner. Now will you give us the name of the second person who may have been the person whom you first interviewed with regard to joining the Communist Party?

Mr. Davis. William Parry—P-a-r-r-y.

Mr. Tavenner. Do you know whether he remained in the Communist Party for any period of time or whether he is still in the Communist Party, to your knowledge?

Mr. Davis. I have known nothing of him since, I believe, 1938.

Mr. Tavenner. Were you required to sign a card, or were you issued a card evidencing your Communist Party membership?

Mr. Davis. For the purpose of collecting dues the treasurer of the unit had a group of booklets in which stamps were pasted to show that the dues had been paid.

Mr. Clardy. You said "the union"?

Mr. Scherer. Unit.

Mr. Davis. Unit. I'm sorry.

Mr. Clardy. Oh, you said unit. I'm sorry. I can't hear you up here.

Mr. Davis. Do you want me to adjust the microphones?

Mr. Tavenner. Did that card have your name on it?

Mr. Davis. No. It had either initials or a pseudonym, and the initials were not actually the initials of the person.

Mr. Tavenner. Will you tell the committee the reason for that?

[fol. 295] Mr. Davis. This was a professional unit and professional units were always particularly protected so that there would be no publicity which would be harmful to the careers of the individual members.

Mr. Tavenner. By that you mean that your Communist Party membership was kept secret from the rank-and-file members of the Communist Party?

Mr. Davis. Yes. To a very large extent.

Mr. Tavenner. And it was in order to preserve that special privilege of immunity, or immunity, that pseudonyms were used?

Mr. Davis. Yes.

Mr. Tavenner. What was your pseudonym?

Mr. Davis. I don't remember because we simply made up one as the books were issued and didn't use it in any other connection. It was purely an aid to memory, so to speak, when the dues were paid. The treasurer called out the names and the persons identified themselves.

Mr. Tavenner. Was the decision to have the names kept secret one of national policy of the Communist Party in such organizations as yours, or was it the result of a decision of your own group?

Mr. Davis. This was regular practice, I believe.

Mr. Tavenner. How was that practice and other Communist practices relayed to your group?

Mr. Davis. The treasurer was informed by the officials what the practice was and instructed in the use of these books.

Mr. Tavenner. Who was your treasurer at that time?

Mr. Davis. I can't remember. The officers within the group kept changing and the membership kept changing. This is, as you know, 15 years back.

Mr. Tavenner. Do you recall the names of any Com-

munist Party functionaries who relayed the instructions and directives from the Communist Party to your group?

Mr. Davis. Yes. There was a paid functionary named Hy Gordon.

Mr. Clardy. What was his capacity with the party?

Mr. Davis. He was an official of some sort. I don't know his title, but he devoted his full time to these activities and was paid some small salary to which this unit contributed.

Mr. Clardy. He was the chief giver of directions, shall we say?

Mr. Davis. Yes. There also was a girl named Margot Clark. M-a-r-g-o-t C-l-a-r-k.

Mr. Clardy. Was she a paid functionary also?

Mr. Davis. No, I don't believe she was a paid functionary, but she went back and forth between this unit and the officials.

Mr. Tavenner. Do you recall how Margot Clark was employed at that time?

Mr. Davis. Then or later she ran a book shop near Harvard Square called something like The Progressive Book Shop.

Mr. Tavenner. Did she have any other employment during the time you knew of her Communist Party activities?

Mr. Davis. No.

Mr. Kearney. Was your group ever addressed by high functionaries of the Communist Party?

Mr. Davis. Yes. A man named Phil Frankfeld. P-h-i-l F-r-a-n-k-f-e-l-d.

[fol. 296] Mr. Kearney. Phil Frankfeld?

Mr. Davis. Phil Frankfeld visited it from time to time.

Mr. Kearney. Do you know where he lives?

Mr. Davis. Where he lived then? No; I don't.

Mr. Kearney. Did you discover where he lived later?

Mr. Davis. He has had a very public career since then. He was involved in one of the trials, I think, at Philadelphia.

Mr. Kearney. I think you are quite correct in assuming he has had quite a public career.

Did you ever know whether the gentleman in question came from Baltimore or Washington?

Mr. Davis. It is my impression that he came from Baltimore or Washington.

Mr. Tavenner. Mr. Chairman, the testimony before the committee shows that he was sent from Philadelphia to the Baltimore area and was at one time the head of the Communist Party for the Washington district, which consisted of the District of Columbia and Maryland.

Mr. Walter. Where is he now, Mr. Tavenner?

Mr. Tavenner. He was recently convicted at Baltimore along with others for violation of the Smith Act.

Mr. Kearney. I think he is serving sentence now.

Mr. Tavenner. I think so.

Mr. Scherer. Professor, do you know where Hy Gordon is today?

Mr. Davis. No. I have never seen him since the thirties.

Mr. Scherer. Do you know where the Clark woman is today?

Mr. Davis. No.

Mr. Tavenner. Will you state how frequently the group met?

Mr. Davis. During the academic year I think it was once a week. Certainly it was as often as twice a week.

Mr. Tavenner. Where were these meetings held?

Mr. Davis. In the apartments of the members.

Mr. Tavenner. What was the nature of the business that was conducted at the meetings?

Mr. Davis. It consisted, as I remember it, of three activities: First, discussing the policies of organizations to which we belonged, like the Teachers' Union, or the front organizations, and determining upon the role that the individual member should play in those organizations;

Secondly, the question of Marxist education—organizing study groups to which teachers would be invited; and, thirdly, various fund-raising activities for united front organizations or for the party itself.

Mr. Tavenner. Let us consider each of those functions in the order in which you named them.

Now what was the policy of the Communist Party with reference to your activities in outside organizations?

Mr. Davis. We were to assume positions of leadership so that their policies would be as close to the policies desired by the Communist Party as possible.

Mr. Tavenner. How was that information transmitted to you as to what organizations you were to infiltrate?

Mr. Davis. I think it hardly needed to be transmitted, because our immediate concern was with the Teachers' Union and with organizations like the [American] League for Peace and Democracy.

[fol. 297] Mr. Tavenner. It may be well at this point for you to give us the names of all the organizations which your cell or group of the Communist Party infiltrated or endeavored to infiltrate.

Mr. Davis. The so-called front organizations change so rapidly that it is hard for me to remember them. But during the period in which I was active we were concerned dominantly with the Teachers' Union.

Mr. Tavenner. Was that merely a local union at Harvard, or was that a national union?

Mr. Davis. It was the national union affiliated with the American Federation of Teachers, which belonged to the A. F. of L.

Mr. Tavenner. Do you recall what instructions were given you by the Communist Party, or any functionaries of the Communist Party, with regard to that particular organization?

Mr. Davis. I think we were left pretty much to ourselves as far as the local organization is concerned, because we all read the party press and were aware of what the general line was. We got the various publications of the Teachers' Union——

Mr. Kearney. But isn't it also true that from time to time you received instructions from national headquarters on your procedure?

Mr. Davis. Oh, yes. As I say, persons like Frankfeld sat in with us, but that was on the whole to educate us because the party felt we were liberals and progressives, and we were not thoroughly grounded enough—not thoroughly disciplined enough—so that, as I recall these conversations, they were of a fairly general nature since the persons who came to visit us were not very well informed about the Teachers' Union itself.

On a national scale the situation was different. There there was a Communist Party faction which did receive——

Mr. Kearney. Pardon me. Was Frankfeld a member of the teaching profession?

Dr. Davis. No. So far as I know he had no connection with it.

Mr. Tavenner. You were familiar with the teachings of Lenin on the subject of the activity of teachers and what they should endeavor to do, I assume?

Mr. Davis. I have seen a passage quoted often since. I don't recall it from those days.

Mr. Tavenner. I have before me volume 23 of Lenin and I find at page 499 this statement:

> But today the chief task of those members of the teaching profession who have taken their stand with the International and the Soviet Government is to work for the creation of a wider and, as nearly as possible, an all-embracing teachers' union.

Mr. Davis. Yes. That is correct.

Mr. Tavenner. And again on page 500 there is this statement:

> Your union should now become a broad teachers' trade-union embracing vast numbers of teachers; a union which will resolutely take up its stand on the Soviet platform and the struggle for socialism by means of a dictatorship of the proletariat.

You are aware of those purposes and of that thinking of the Communist Party?

Mr. Davis. Yes.

Mr. Moulder. Was that book referring to the teachers in our educational institutions, or just as representatives? [fol. 298] Mr. Tavenner. This has reference to the teachers' trade-unions throughout the world and not any one particular country or any one segment of the country.

Mr. Davis. Of what date are those passages? Lenin was not speaking of the United States, of course.

Mr. Velde. We hope not.

Mr. Tavenner. What activity did your group engage in which might be said to have carried out the policy as expressed by Lenin of assisting in the organization of teach-

ers' trade-union movement which would be adaptable to the purposes of the Soviet Union?

Mr. Davis. We worked very hard to build up the Teachers' Union in Harvard and to build up teachers' unions generally, and we did this with a comparatively clear conscience because our objectives, our immediate objectives, were to improve teaching conditions, raise salaries, and so on; but also obviously we wished teachers to take the same position that we took on public questions.

Mr. Tavenner. Was there a local of that organization at Harvard?

Mr. Davis. Yes.

Mr. Tavenner. Did it have a name?

Mr. Davis. It was called the Cambridge Union of University Teachers, as I recall.

Mr. Tavenner. Will you explain the manner in which the Communist members of your group functioned within the Teachers' Union—your local Teacher's Union?

Mr. Davis. We usually discussed before a meeting what policies we would urge at the meeting; and whenever there were elections we would decide in advance what candidates we would propose or support.

Mr. Tavenner. And the purpose of that was to make certain that the plans of your group were carried out because the vast majority of members of your local were non-Communist?

Mr. Davis. Yes.

Mr. Tavenner. Did your group ever oppose the election of an official of the local group who was opposed to the Communist Party?

Mr. Davis. That would follow almost inevitably from the fact we did support some. Naturally we would oppose their opponents, but I can't remember specific instances.

Mr. Tavenner. Did the group of Communists who were working within the Teachers' Union also sponsor the passage of resolutions which the Communist Party as a whole was interested in having endorsed or adopted by various groups?

Mr. Davis. Yes.

Mr. Tavenner. Can you recall any specific instance?

Mr. Davis. No; I can't, but they would have to do again with the national political situation at that time.

The Communists supported the New Deal, supported the Roosevelt administration until the Russian pact of 1939; and many of the measures which they supported were, I think, good measures—against anti-Semitism; against fascism; for minority rights.

Mr. Tavenner. Did your group of Communist Party members endeavor to control the selection of delegates from the local Teachers' Union to national conventions?

Mr. Davis. Yes.

Mr. Tavenner. And also to district conventions?

Mr. Davis. Yes.

[fol. 299] Mr. Tavenner. Of what district was the local at Harvard a member?

Mr. Davis. The Massachusetts Teachers' Union—whatever its title was.

Mr. Clardy. Can I interject there?

Were you successful in your efforts to obtain that control in the selection of delegates?

Mr. Davis. During that period; yes.

Mr. Clardy. Was that because you had been a cohesive body, knew where you were going, and worked hard at it?

Mr. Davis. And also because, as I say, the policies we supported were policies supported by many liberals and progressives at that time.

Mr. Clardy. And you had the support of many other people who would probably have rebelled at communism as a word or party?

Mr. Davis. I am not even sure the last is true, because many were willing to work with Communists in the united front at that time.

Mr. Clardy. Even though they knew they were working with Commies?

Mr. Davis. Yes.

Mr. Doyle. What year was that, please?

Mr. Davis. That was between 1937 and 1939.

Mr. Clardy. We are talking now about those in the teaching profession particularly?

Mr. Davis. Yes.

Mr. Clardy. You understand that?

Mr. Davis. They would have said, though, they objected strongly to certain Communist policies, they felt the good ends justified the means of collaboration at that time.

Mr. Scherer. I believe you said, Professor, that the group, party, at that time apposed anti-Semitism?

Mr. Davis. Yes.

Mr. Scherer. Today, of course, you know it is as anti-Semitic as the Nazi Party?

Mr. Davis. Yes. That's why I was particularly interested in the position of Louis Harap.

Mr. Clardy. I don't follow you there.

Mr. Davis. Because, as editor of the magazine, whatever it may be called, Jewish Affairs, I believe, he is now defending the Prague trials, contending that they are not anti-Semitic.

Mr. Clardy. Do you happen to have a copy of that available? I would like to see one.

Mr. Davis. No; I don't.

Mr. Clardy. If you could obtain one and send it to me, I would appreciate it. We may have it in the files, but I would like to see a recent issue.

Mr. Tavenner. Now, will you proceed, please, to describe the method by which you endeavored to control the selection of delegates to the district and national convention of the Teachers' Union?

Mr. Davis. One reason why Communists were successful was because in these organizations all service was voluntary. The teachers were very busy; trips were expensive, and very frequently those who offered to go were asked to go because no other persons were available, and if a member of the Communist Party offered to go his offer was usually accepted, if he offered to go to a national convention. [fol. 300] Mr. Tavenner. And were those offers made as a result of a decision by your Communist Party group that they should be made?

Mr. Davis. Yes. Again, if persons were willing to go, even within the Communist group, there was not immediate pressure or orders which had to be carried out. That is, the members of this group still retained a great many of their liberal attitudes and were handled, on the whole, with kid gloves by the officials.

Mr. Tavenner. Did you attend a district or State or National convention of the Teachers' Union?

Mr. Davis. I went to two national conventions.

Mr. Tavenner. Will you state whether or not Communist Party influences were brought to bear on the conventions that you attended?

Mr. Davis. There was always a Communist Party caucus.

Mr. Moulder. What years——

Mr. Tavenner. Describe that——

Mr. Moulder. What years were those?

Mr. Davis. These were in the academic years 1937-38 and 1938-39.

The convention I remember most clearly was at Buffalo, and it occurred just at the time of the pact in late August 1939.

Mr. Clardy. Witness, are you sufficiently acquainted with the facts as of today to tell us whether or not the same techniques are being followed today?

Mr. Davis. Oh, I'm sure that can be taken for granted. The Communists always meet and consult together.

Mr. Clardy. And the things you've been describing as taking place in the thirties, in your judgment, are taking place today?

Mr. Davis. Yes; except that the situation probably requires much more secrecy. These activities were comparatively open at that time.

Mr. Clardy. You think there is more of an underground now than there was at that time?

Mr. Davis. Yes, and a much smaller one.

And I should like to interject at this point the fact that at the present time among teachers the influence of Communists is very slight because the times have changed and because the teachers have been so shocked by the events in the Soviet Union in the last 8 years; and among students at colleges like Smith any evidence of radical activity has disappeared entirely.

Mr. Clardy. Would you say the things you and others like you have been doing to combat the Communist influence may have had something to do with making it more difficult for the Communists to get along?

Mr. Davis. A little, I hope; but mostly it is a matter of

world events—the Korean war; the purge trials in the Soviet Union and the inhumanities practiced by Communist regimes. It's very hard for anyone to defend those today.

Mr. Tavenner. Would you also say that knowledge of the manner in which the Communist Party endeavors to exert influence over its own members and to effect their thinking, and particularly their views as to academic freedom, have awakened the teachers and students in a measure to the dangers of communism?

Mr. Davis. Yes. I think those who entered the Communist Party for good reasons, for democratic and progressive reasons, discovered that the activities of the party were inconsistent with democracy and progressivism [fol. 301] and left; and I think those who left have had a much greater insight into the dangers of communism, both intellectually and politically, than they otherwise would have had. They've salvaged that at least from the experience.

Mr. Clardy. You wouldn't say the job of cleansing the temple has been finished, though, would you?

Mr. Davis. No; but I am speaking now of general influence among teachers and students. The open influence is very slight now.

Mr. Tavenner. I was——

Mr. Velde. Mr. Davis, may I ask you: Do you feel a person who is a Communist, belongs to the Communist Party, adheres to the principles of the Communist Party, follows the Communist Party line, is a free agent, especially with reference to his teaching ability?

You mentioned something awhile ago about the control the Communist Party has over the thinking of teachers and American citizens, how it attempts to control the thinking of American teachers and citizens generally. I'm just wondering if you have any further comment to make on that particular phase.

Mr. Davis. So far as my own experience goes, there was no direct attempt to influence teaching. There was never in the unit to which I belonged any discussion of what we did in class. It was always an indirect influence through Marxist-Communist political education.

Mr. Velde. I am referring to this: Do you think a Com-

munist Party member can have a free and open mind, especially in teaching in a classroom, even though he was given no instruction by the Communist Party as to what he should teach?

Mr. Davis. It depends on his subject. I should think a teacher of music or mathematics might teach in a way that was quite unaffected by his political theories. In the political sciences, and even in the humanities, I doubt if this can be so; and I, myself, now feel that no one who is generally genuinely humane could be a defender of what goes on now in the Soviet Union and the Communist countries.

Mr. Velde. Then, within the classroom it is possible, in your opinion, that a Communist can teach without instilling Communist philosophies in students, providing he taught the proper subjects. Now, how about his influences outside the classroom on our thinking?

Mr. Davis. There he's likely to have more influence. This often, too, will be indirect because of his influence on other faculty members, because of the talks he gives at public meetings. It's not been my experience that Communists, partly for reasons of security, try very generally to indoctrinate students specifically. I think the influence does tend to be an indirect one.

Mr. Velde. Mr. Davis, you have mentioned, discussed this cell, Communist Party, in Harvard. I would like to state, for the benefit of the public press, that in the committee's opinion the fact that the testimony at this hearing involves a Communist cell at Harvard is no reason that inferences should be drawn that we are investigating Communist activities only at Harvard University or that these activities are any more serious at Harvard than at any other of our great universities.

Mr. Kearney. Professor Davis, a few days ago, in the newspapers, there was a hue and cry raised by certain educators throughout the country protesting against the investigation of communism and Communists in the universities and colleges of the country. In other words, these [fol. 302] individuals stated there was an interference with freedom of thought.

Do you believe that this committee should proceed in

exposing communism and Communists in the colleges and universities of this country?

Mr. Davis. I think in the present situation that the Government should explore and expose the ramifications of the Communist Party; but I think this has to be done with great caution by persons who are politically informed. I think that the testimony should be cautious testimony that would stand up in court. I think any loose charges, particularly a loose use of the word "Communist" or "Red" applied to teachers who are speaking their honest convictions about national or international affairs, can be extremely harmful. I think it's entirely a question, therefore, of the manner in which this is done, the scrupulousness.

Mr. Kearney. With that I heartily agree with you, but at the same time do you see any objection to the investigation of Communists and communism in labor unions, in other phases of our national life, to the exclusion of universities and colleges?

Mr. Davis. No. I do feel it necessary to have all possible information about the activities of the Communist Party itself for security reasons.

Mr. Clardy. Could you put it this way: If we treat the other witnesses as you have been treated thus far, would you not say we are conducting it fairly and as you would like it?

Mr. Davis. So far, yes.

Mr. Scherer. Do you feel that your experience today here has interfered in any way with your academic freedom or the academic freedom of any professor at Smith College?

Mr. Davis. That I will learn in the weeks to come.

Mr. Doyle. May I ask this right along that line: Have you been subpenaed to come before this committee?

Mr. Davis. Yes.

Mr. Doyle. And you came as a result of being subpenaed?

Mr. Davis. Yes.

Mr. Velde. Proceed, Mr. Doyle.

Mr. Doyle. Would you have felt it your duty to in any way contact this committee or any other governmental agency or department and reveal anything which you have today revealed if you hadn't been subpenaed?

Mr. Davis. I did not do so because I had reason to sup-

pose that the facts were available to the necessary—to the Government agencies.

Mr. Doyle. You mean the facts as regards you, yourself?

Mr. Davis. Yes.

Mr. Doyle. Having been a member back in 1937-38?

Mr. Davis. Yes.

Mr. Doyle. Along the line of the cell at Harvard, am I in error that that cell, so far as you know, no longer exists; does it?

Mr. Davis. I have no direct knowledge of it; no.

Mr. Doyle. And you have had no direct knowledge of it since approximately what year?

Mr. Davis. Nineteen—the fall of 1939.

Mr. Tavenner. An investigator of this committee came to see you before any subpena had been issued?

[fol. 303] Mr. Davis. At the same——

Mr. Tavenner. Isn't that true?

Mr. Davis. At the time of the issuing of the subpena. It was not presented until after he talked to me.

Mr. Tavenner. So that the information you have given the committee was given actually before any subpena was served on you?

Mr. Davis. Yes.

Mr. Tavenner. Or at least some information relating to the general problem?

Mr. Davis. Yes.

Mr. Tavenner. You indicated that the members of your group at the time you were a member of the Communist Party did not make an effort to recruit students into the Communist Party?

Mr. Davis; No; definitely not.

Mr. Tavenner. Well, was the emphasis of recruitment made in any other field?

Mr. Davis. Yes; the effort was to recruit faculty members.

Mr. Tavenner. Why was it the decision was made to attempt to expand the Communist Party within the faculty instead of branching out also and including students?

Mr. Davis. I think——

Mr. Tavenner. Was there a reason?

Mr. Davis. I think there were a variety of reasons, but

the first one is that it would have been much too risky as students join something and leave it and they talk freely and it would have led to the exposure of the individual members.

But I also think, as I say, that the group at Harvard were at heart democrats, liberals, progressives. I think they disliked using any pressure they might have on individual students, even though this seems inconsistent with their policy and position as Communists.

In any case, though, members of the group spoke as individuals before general student meetings and rallies. There was a very minimum of direct personal contact.

Mr. Tavenner. Was it common knowledge at Harvard that a Communist Party cell existed among the faculty members?

Mr. Davis. Yes, among liberals close to those who were party members.

Mr. Tavenner. Well, that fact in itself would have been an inducement to members of the student body to unite in some group of their own, such as the Young Communist League, would it not?

Mr. Davis. It might be an influencing factor, but there were so many other factors in that time. The students were even more politically conscious than the instructors, and there were all sorts of organizations for them which were directed from above, quite independently of this group, so that even if the group hadn't existed I think student organizations would have taken very much the same character.

Mr. Tavenner. Do you know whether or not there were student organizations of the Communist Party?

Mr. Davis. This was almost certainly, although I had no direct contact with it, the Young Communist League. It may have had a different name, although that was what it was.

Mr. Tavenner. Did you have any information as to the numbers that were of that group?

[fol. 304] Mr. Davis. I would have the impression there the membership was quite small, though it exerted a larger influence than the number would indicate.

Mr. Tavenner. Were there other groups members of the Communist cell within the faculty?

Mr. Davis. I have no certain knowledge of that. I have no reason to suppose there were.

Mr. Clardy. Counsel, may I interrupt?

You say they would exert influence far greater than their numbers would seem to indicate possible. What do you mean by that?

Mr. Davis. I mean among the students the same thing would happen in student organizations that happened to us in the Teachers' Union—that is, a small group whose policies were in general accordance with the left-wing and progressive movements at that time could assume a position of leadership, and they were often very intelligent and well-informed students.

Mr. Tavenner. I would like to return now to the action that was taken at the national conventions of the Teachers' Union.

I understand you to say that caucuses were held at both of the conventions that you attended and that those caucuses were made up of Communist Party members.

Mr. Davis. I can't remember attending a caucus at the first one I went to. I think they may have slipped up or my name wasn't known, or something. I can't remember going to any of the first, but I do remember the second.

Mr. Tavenner. Well, tell us all you know about that, please.

Mr. Davis. These were fairly large, as I remember, and would discuss what was occurring at the convention and what was needed to shift opinion or to get someone elected. It operated very much as the unit at Harvard operated within the local Teachers' Union; and at that time they were rather careless so far as publicity was concerned—people at the convention—in the sense that this was going on, I believe.

Mr. Tavenner. How many composed that caucus meeting?

Mr. Davis. It was quite large, and even that may have been selective.

Mr. Tavenner. Can you give the committee any reasonable idea as to the number?

Mr. Davis. No; I would—I really can't.

Mr. Walter. Where were they held? You testified one was held in Buffalo. Where was the other convention?

Mr. Davis. In a place in Ohio, on a lake. I don't remember it now.

Mr. Tavenner. How many of your associates from Harvard attended that convention with you?

Mr. Davis. The second one?

Mr. Tavenner. Yes.

Mr. Davis. I remember only one other person.

Mr. Tavenner. What was his name?

Mr. Davis. Let me preface the naming of names by expressing my extreme concern over the necessity of naming names—not because I don't agree with what I said earlier about the necessity of studying the ramifications of the Communist Party, but because these events occurred from 12 to 15 years ago, I knew many teachers in many different connections, professional and personal, and I have [fol. 305] moments of doubt even among—about those whom I assumed I knew best in these connections.

But do you still wish me——

Mr. Tavenner. Well, now, let me say this: I do not want you to state in open session the name of any person as to whom you are not sure or as to whom you are in doubt as to membership.

Mr. Velde. You are referring to membership in the Communist Party, aren't you, Mr. Counsel?

Mr. Tavenner. Yes, and that was my question.

Mr. Davis. Yes.

Mr. Tavenner. As to who it was that attended this Teachers' Union convention with you who was a member of the Communist Party with you at Harvard.

Mr. Davis. Yes. That is why I hesitated.

Mr. Tavenner. And if you are in doubt as to the name, I do not want you to state it in public session.

Mr. Davis. I would prefer not to, then.

Mr. Clardy. Well, let me say this: As a new member of the committee, I join in what has been said and I want you to thoroughly understand that we do not want you, as individual members to give us any wild rumors or guesses. We want you to speak only of your knowledge.

Mr. Davis. Yes.

Mr. Jackson. May I ask a question at this point, Mr. Chairman?

Mr. Velde. Mr. Jackson.

Mr. Jackson. Is the doubt in your mind, Professor, as to whether or not this individual was a member of the Communist Party?

Mr. Davis. No; in this case it's a doubt whether the person I'm thinking of is the one who actually attended the convention.

Mr. Velde. But I take it you are certain that this person you are thinking of, who attended the convention, was a member of the Communist Party; is that right?

Mr. Davis. No; I am not certain about the person who attended the convention with me—the second convention. That is what I am uncertain about.

Mr. Velde. But you remember him as a member of the Communist Party?

Mr. Davis. One of the persons I have in mind was a member of the Communist Party; yes, but I am not certain he is the one who went to the convention.

Mr. Velde. Well, will you state, then, for the benefit of the committee the name of that person and how you know he was a member of the Communist Party without reference to the convention?

Mr. Doyle. Now, may I ask this, please, at that point?

Mr. Velde. Well, just a minute. Will you let the witness answer my question?

Mr. Doyle. No; I want to interpolate right here before the witness answers that question, if I may, please.

Mr. Velde. All right, proceed.

Mr. Doyle. I want to compliment the witness on being extremely careful. I want to compliment our counsel on the statement he made, interpreting to the witness the kind of evidence we want, and I wish to go on record now, as I have often, that I, as a member of the committee, want to state to the witness if there is any reasonable doubt in your [fol. 306] mind as to whether or not this person or any person about whom you are testifying now or do before you are through with your testimony is a Communist, in line with the question you are asked, I would say as a member of the committee I don't want you to give the name

of a person unless you are dead sure that person was a member of the Communist Party.

Mr. Velde. I would like to concur here in the statement, as far as that is concerned, Mr. Doyle, and further state should any person be mentioned in public hearing and that person feels that he would like to come forward and talk to the committee counsel and committee investigator with reference to the testimony about him, or would like to come forward in opposition and refute that testimony, he is certainly welcome to do so by applying to our counsel or one of our investigators.

Mr. Tavenner. Now, Mr.——

Mr. Velde. I think I have the question that hasn't been answered yet.

Will the reporter restate the question?

Mr. Tavenner. Mr. Chairman, I had planned before the testimony is completed to give him an opportunity to state who were associated with him in this work, and the circumstances, and I don't know whether it can be done very well by just asking him one particular name at a time.

Mr. Velde. All right; I will withdraw the question, and we will proceed.

Continue, Mr. Counsel.

Mr. Tavenner. Now, will you proceed to describe for the committee the action that was taken in the caucus that you referred to and just how the caucus was managed?

Mr. Davis. That caucus, as I say, discussed policies and events at the convention itself.

I remember more clearly a caucus which I attended in New York during the academic year and not at a time of convention. This was a caucus of representatives from different parts of the country. It was addressed by Jack Stachel, an official of the——

Mr. Tavenner. Now, was this meeting you referred to in New York a Communist Party meeting or was it a caucus of a group within the Teachers' Union?

Mr. Davis. It was a caucus of the group within the Teachers' Union.

Mr. Velde. Mr. Counsel, if you have a convenient breaking-off point, the committee would like to recess.

Mr. Tavenner. May I finish this one point?

Mr. Velde. Yes, sir.

Mr. Tavenner. You say Jack Stachel spoke to the group of teachers of the Teachers' Union?

Mr. Davis. Yes.

Mr. Tavenner. What was Jack Stachel's position in the Communist Party?

Mr. Davis. He was a high official of some kind.

Mr. Tavenner. He is one of those who was convicted in the first trial of the Communists in New York——

Mr. Davis. Yes; under——

Mr. Tavenner. Under the Smith Act, was it not?

Mr. Davis. Yes.

[fol. 307] Mr. Velde. The committee will be in recess until 2 o'clock.

(Thereupon, at 11:52 a. m., the hearing was recessed, to reconvene at 2 p. m. the same day.)

AFTERNOON SESSION

(At the hour of 2:03 p. m. of the same day the proceedings were resumed, the following committee members being present: Representatives Harold H. Velde, Donald L. Jackson, Kit Clardy, Gordon H. Scherer, Francis E. Walter, Morgan M. Moulder (appearance noted in hearing), Clyde Doyle, and James B. Frazier, Jr. (appearance noted in hearing).)

Mr. Velde. The committee will be in order.

Proceed, Mr. Tavenner.

Mr. Tavenner. All right.

Mr. Davis, be seated, please.

Professor Davis, in your testimony this morning you set forth the activities of the members of your cell in three categories. One was the aid and assistance that you as Communist Party members should give in infiltrating and aiding Communist front-organizations——

Mr. Davis. Or professional organizations.

Mr. Tavenner. Or professional organizations; and second, Marxist study groups that you participated in; and, third, was fund-raising campaigns for the benefit of organizations in which the Communist Party was interested.

I am just reminded sometimes you nod your head in approval rather than to specifically answer, and the reporter——

Mr. Davis. I see.

Mr. Tavenner. Can't put down the nodding of the head.

Mr. Davis. This summary seems to be correct.

Mr. Tavenner. Yes.

When we concluded the morning session, you were about to tell us of a caucus meeting that occurred in New York City which was addressed by Jack Stachel. Now, will you inform us fully about that meeting, what it was, its purposes and any other information you can give us about it.

Mr. Davis. It was to determine the policies of the Communist leaders within the A. F. of T.

Mr. Clardy. Within what?

Mr. Davis. Within the American Federation of Teachers.

At that time——

Mr. Tavenner. Excuse me. Will you state that over, please?

Mr. Davis. It was called to determine the policies of the Communists who were in positions of leadership within the American Federation of Teachers.

(Representatives Morgan M. Moulder and James B. Frazier, Jr., entered the hearing room at this point.)

Mr. Tavenner. In ascertaining who were those leaders——

Mr. Davis. I don't think I can——

Mr. Tavenner. What was the purpose in attempting to ascertain the names of the leaders in that organization?

Mr. Davis. Oh, no; these were Communists who were in position of leadership, and they were called by the party to the meeting in New York to determine future policy——

Mr. Tavenner. Oh, I——

Mr. Davis. Of the American Federation of Teachers.

[fol. 308] Mr. Tavenner. I'm sorry—I misunderstood you.

Mr. Clardy. They wanted to resolve a course of action?

Mr. Davis. Yes: and this course of action was outlined by Stachey.

Mr. Tavenner. Over what area were these people selected who attended that meeting?

Mr. Davis. From a quite wide area—from New England, the Middle Atlantic States, and I think there were some representatives from the West, the Middle West at least.

Mr. Tavenner. Now, to be certain, I understand that this was a meeting of Communist Party members——

Mr. Davis. I understood it to be; yes.

Mr. Tavenner. And it was a meeting of Communist Party persons who were also members of the Teachers' Union——

Mr. Davis. Yes.

Mr. Tavenner. Is that correct?

Mr. Davis. Of the national federation.

Mr. Tavenner. Of the National Federation of Teachers?

Mr. Davis. Teachers.

Mr. Tavenner. Was a person by the name of Hulda McGarvey present at that meeting?

Mr. Davis. No.

Mr. Tavenner. Were you acquainted with Hulda McGarvey?

Mr. Davis. Yes; I had met her at Smith at the time she was teaching there, and I met her at caucuses of the New England representatives meeting in Boston.

Mr. Tavenner. Now, when you say "caucus"—caucus of what?

Mr. Davis. Of Communist Party members within the State Federation of Teachers.

Mr. Tavenner. And you met with her as a member of that caucus?

Mr. Davis. Yes.

Mr. Tavenner. When was that?

Mr. Davis. I can only fix it within the years of my party membership. I can't fix the exact date.

Mr. Tavenner. Did I understand you to state she was employed in some capacity at Smith?

Mr. Davis. At that time.

Mr. Tavenner. How long was she employed at Smith College?

Mr. Davis. I don't know because she had left when I went there myself to teach.

Mr. Tavenner. Oh, she was not there when you were there as a teacher?

Mr. Davis. No.

Mr. Tavenner. Do you know whether she held any position in the Teachers' Union?

Mr. Davis. She represented in some capacity the local at Smith.

Mr. Tavenner. Does that local still exist at Smith College?

Mr. Davis. No; I think it went out of business about 2 years ago.

Mr. Tavenner. Do you recall whether Doxie Wilkerson was present at that caucus in New York?

Mr. Davis. No; he was——

Mr. Tavenner. What position did he have in the union?

Mr. Davis. He was one——

Mr. Tavenner. Teachers' Union?

[fol. 309] Mr. Davis. He was one of the national board of American Federation of Teachers.

Mr. Tavenner. Do you recall whether or not he was also a functionary of the Communist Party?

Mr. Davis. Not at the time in any open way, but I assumed from his presence there that he was a member.

Mr. Tavenner. Was Samuel Sillen at that meeting?

Mr. Davis. Not at the caucus in New York, but I met him at the Communist caucus at one of the two meetings of the American Federation of Teachers I attended, and presumably the second because, as I said this morning, I don't remember going to a caucus of the first.

Mr. Clardy. Counsel, what is that name?

Mr. Tavenner. Sillen—S-i-l-l-e-n.

Mr. Clardy. His first name?

Mr. Tavenner. Sam—Samuel Sillen.

What was his position at that time; do you know?

Mr. Davis. No; he was either teaching or had been teaching somewhere in the New York area.

Mr. Tavenner. Do you know whether or not he held an official position in the Teachers' Union at that time?

Mr. Davis. That, I do not remember.

Mr. Tavenner. Do you know whether he held any position within the Communist Party at that time?

Mr. Davis. No; I know only he was a delegate to the convention; that he also was a Communist.

Mr. Tavenner. Do you know whether he is the same person as Samuel Sillen who was or is affiliated with the Daily Worker at this time?

Mr. Davis. I know him through the magazine Masses and Mainstream, of which he is an editor.

Mr. Velde. Is he an editor of Masses and Mainstream at present time, Mr. Davis?

Mr. Davis. I think so; yes.

Mr. Tavenner. Now, can you recall the names of any other functionaries of the Communist Party or members of the Communist Party who were present at that caucus which was addressed by Jack Stachel——

Mr. Davis. Charles——

Mr. Tavenner. In New York?

Mr. Davis. Charles Hendley—H-e-n-d-l-e-y—was present. He was at that time head of the New York local of the American Federation of Teachers.

Mr. Tavenner. Do you recall what position he held at that time in the teaching profession?

Mr. Davis. No; I don't. I assume he was a teacher in the New York public schools, but I am not certain.

Mr. Tavenner. Will you give us the names of others?

Mr. Davis. I think Bella Dodd was present on that occasion.

Mr. Tavenner. Was Bella Dodd at that time one of the officers of the Teachers' Union?

Mr. Davis. Yes; I think she was a legislative representative but that may have occurred later.

Mr. Tavenner. Did she later become a member of the National Committee of the Communist Party?

[fol. 310] Mr. Davis. I believe so.

Mr. Tavenner. And she has now withdrawn from the Communist Party?

Mr. Davis. Yes.

Mr. Tavenner. And is very much opposed to it?

Mr. Davis. Yes.

Mr. Tavenner. And is active in her opposition to it?

Mr. Davis. Yes; she has testified in New York.

Mr. Tavenner. Was Katherine Lumpkin present at the meeting in New York?

Mr. Davis. No. I met her at the—well, I have known her

in many connections but she was present at the second convention I attended, I'm pretty sure at the time of the Russian-German pact, that is, the meeting of late August 1939.

Mr. Tavenner. Now, what meeting was that to which you refer?

Mr. Davis. That was the convention of the national federation in Buffalo.

Mr. Tavenner. Did she hold any official position in the Teachers' Union?

Mr. Davis. She was a delegate and has at times since then been secretary of the Smith College local.

Mr. Tavenner. Well, was she on the faculty of Smith College at that time?

Mr. Davis. I don't know if she's ever been on the faculty; no. She has been a teacher in the past and, therefore, had a right to belong to the union, but she was not formally connected with Smith College.

Mr. Tavenner. She had never been employed at any time by Smith College, to your knowledge?

Mr. Davis. Not to my knowledge; no.

Mr. Clardy. What was her first name, Counsel?

Mr. Tavenner. Katherine.

Mr. Davis. Katherine.

Mr. Tavenner. The spelling is K-a-t-h-e-r-i-n-e, I believe.

Mr. Davis. Yes.

Mr. Tavenner. Did she reside in that community, Northhampton, though not attached in any way to the school?

Mr. Davis. Did she resign, you said?

Mr. Tavenner. Reside.

Mr. Davis. Yes; she resided in Northhampton.

Mr. Tavenner. Were you acquainted with Dorothy W. Douglas?

Mr. Davis. Yes.

Mr. Tavenner. What was the nature of your acquaintanceship with her?

Mr. Davis. I've known her as a teacher at Smith, but I also knew her in the American Federation of Teachers before I came to Smith, and I knew her as a Communist in that federation, both through contact in caucuses in Massachusetts and also at the national convention.

Mr. Tavenner. Is she still affiliated with Smith College?

Mr. Davis. No; she left, I think, 2½ years ago.

Mr. Clardy. Where is she now?

Mr. Davis. She is residing, I believe, in Bryn Mawr, but is not connected with the college so far as I know.

[fol. 311] Mr. Tavenner. Was she in attendance at the caucus held in New York City which was addressed by Jack Stachel?

Mr. Davis. No.

Mr. Tavenner. Well, now, can you recall the names of any other persons who attended the caucus in New York City which was addressed by Jack Stachel?

Mr. Davis. Not with the complete confidence we discussed this morning; no.

Mr. Tavenner. Will you advise the committee more fully as to the action that was taken at that caucus meeting?

Mr. Davis. At that time, as I recall it, Stachel was in a conciliatory mood because of the requirements of the united front policy and wanted the Communist members to accept the leadership of the so-called Chicago group.

Mr. Clardy. The what?

Mr. Davis. Of the Chicago group.

The Chicago local was at that time considered to be far more conservative politically than the New York tendency and, for political reasons, to preserve the union of the federation, the members at that caucus were instructed not to fight the Chicago local, to permit it to carry out some, at least, of its policies.

That's the best of my recollection after all these years.

Mr. Tavenner. Did you acquire information at that time as to what percentage of the membership of the Teachers' Union were members of the Communist Party?

Mr. Davis. No. This was a very selective caucus.

Mr. Clardy. How many were present altogether?

Mr. Davis. I should say about 20, but we weren't introduced to each other and, so, I can name only those whom I recognized from attendance at the conventions.

Mr. Tavenner. Now, let us return to the second of the national conventions which you attended and at which you said there was a caucus of the Communist Party members. Will you advise the committee what the result of the caucus was that was had?

Mr. Davis. No; I'm sorry to say I cannot because it was a matter of very complex union affairs and after this period of time I simply can't reconstruct it in any meaningful way. It was not a matter of broad national policy, but of factional controversies within the union.

Mr. Tavenner. Well, will you give us, please, the names of persons who attended that caucus and whose names you have not already given us?

Mr. Davis. No; I don't remember any others.

Again, we were not introduced to them, you see. They preserved the secrecy of names as much as possible.

Mr. Tavenner. You referred to your local at Harvard being a member of the district?

Mr. Davis. Yes.

Mr. Tavenner. How many schools were represented in that district organization?

Mr. Davis. Well, both the colleges and the public schools were included. A very large number were because there were public school locals in at least 8 or 10 of the local schools in Massachusetts. The college representation was much smaller, but I suppose at least 6 colleges were rep-
[fol. 312] resented—not by Communist Party members; I'm speaking now of the Teachers' Union itself and the Massachusetts Federation of Teachers.

Mr. Tavenner. Well, what were the names of the colleges who were affiliated with or a part of that district?

Mr. Davis. Smith was; Simmons College; I think there probably was a Wellesley local. I can't be sure. I think Tufts at times may have had representation. Amherst, I think, may have.

Mr. Moulder. I think we should make the record clear they weren't representing those schools there at that meeting, were they?

Mr. Davis. No; I am not speaking now of Communists, but simply of the locals, college locals who were affiliated with the National Federation of Teachers.

Mr. Clardy. Did each of them, however, have a Communist cell within their representation?

Mr. Davis. Not so far as I know. Smith is the only one I can recall that did have.

Mr. Tavenner. Did you attend any caucus meetings at that district——

Mr. Davis. Of——

Mr. Tavenner. Convention?

Mr. Davis. Of Massachusetts?

Mr. Tavenner. Yes.

Mr. Davis. Yes; I think I must have attended at least one. That is why I remember the presence of Dorothy Douglas and Hulda McGarvey.

Mr. Tavenner. Was the same procedure used in the district conventions as in the national of having a caucus of Communist Party members?

Mr. Davis. Yes. That met fairly infrequently because the State organization was less important than either the locals or the national. It was simply an in-between link.

Mr. Tavenner. Can you recall the names of any Communists who met in a Communist caucus attended by you at a district convention which you have not already given us?

Mr. Davis. No; I can't, and I attempted to recall, but none come to me.

Mr. Tavenner. What was your last connection with the Teachers' Union as a members of the Communist Party?

Mr. Davis. It continued as long as my membership in the party continued. That is, I was a Communist, Communist Party member, within the union and that status changed, of course, when I stopped being a member of the Communist Party; but I remained active in the union and found myself in opposition to my former comrades.

Mr. Tavenner. Did you make known in any special way the fact that you had withdrawn from the Communist Party to those that you had been formerly associated with in the Communist Party?

Mr. Davis. Oh, they knew it, of course, instantly.

Mr. Tavenner. Now, your activity and that of the other members of the Communist Party in promotion of the interest of the Communist Party within the Teachers' Union was only one of the various activities, I understand——

Mr. Davis. Yes.

[fol. 313] Mr. Tavenner. In which members of your cell or group engaged?

Mr. Davis. Yes.

Mr. Tavenner. I believe you stated that another function

of your party, of your group, was to join American League for Peace and Democracy?

Mr. Davis. Yes; politically, in the struggle against war and fascism, that was the major popular front.

Mr. Tavenner. Now, will you tell the committee what led up to the work of the Communist Party within that organization, as you understood it?

Mr. Davis. This organization had existed in various forms since at least 1933, and I think——

Mr. Tavenner. It was formerly the American League Against War——

Mr. Davis. War and Fascism.

Mr. Tavenner. And Fascism.

Mr. Davis. It grew out of an international conference, I think, in Brussels around 1933, a peace conference, and continued on an international scale from that time on and through that whole period I think it was a direct instrument of the Communist Party—one of its most important fronts.

Mr. Tavenner. The American League for Peace and Democracy was cited for subversion and having Communists by Attorney General Tom Clark on June 1, 1948, in this language:

> Established in the United States in 1937 as successor to the American League Against War and Fascism in an effort to create public sentiment on behalf of a foreign policy adapted to the interests of the Soviet Union.
>
> The American League for Peace and Democracy was designed to conceal Communist control in accordance with the new tactics of the Communist Internationale.

Is that citation in accordance with the facts as you understood them and believed them to be?

Mr. Davis. Yes; it seems entirely correct, except I would add, as I did this morning, to many in the late thirties the policy of the Soviet Union seemed consistent with American interests so far as the struggle against fascism and Hitler was concerned.

Mr. Tavenner. Now, what was the overall policy of that organization as you were connected with it?

Mr. Davis. It was to a large extent a neighborhood or-

ganization and was intended to draw in people who were not primarily intellectuals, to educate them, to get them to take, as citizens, the political line which the Communist Party desired to see followed. It was not a tightly organized society.

Mr. Tavenner. And that political line was to oppose Hitler?

Mr. Davis. But it also included defense of the Soviet Union, as they say.

Mr. Tavenner. And defense of the Soviet Union?

Mr. Davis. Yes.

Mr. Tavenner. Now, did the policy of that organization change and even the character of the organization change?

Mr. Davis. After the pact?

Mr. Tavenner. Yes.

Mr. Davis. It tried to continue but it collapsed. The position the Soviet Union was following in the fall of 1939 [fol. 314] was so inconsistent with the previously stated objectives of the league that I think the Communists abandoned it and started other organizations in its place, such as the Peace Mobilization, the Yanks Are Not Coming Committees, and so on.

Mr. Tavenner. Well, the American Peace Mobilization organization really took up where the other organization, American League for Peace and Democracy, left off.

Mr. Davis. That's my impression; yes.

Mr. Tavenner. And the change in the Communist Party line was that it was necessary when the pact had been signed between Soviet Russia and Germany to then criticize the United States for preparing for war and calling it a warmonger.

Mr. Davis. Yes; the war was declared to be an imperialist war.

(Representative Morgan M. Moulder left the hearing room at this point.)

Mr. Tavenner. And that change took place almost as quickly as the signing of the pact, didn't it?

Mr. Davis. Yes; there was a week of confusion in which the Communist Party publications were uncertain as to what line to take, but after about a week they got the line

which was completely inconsistent with what had gone before.

Mr. Tavenner. Well, what effect did that have upon the professors at Harvard who were members of this Communist Party group?

Mr. Davis. It was extremely unsettling. I started to break at once, within that week, but then I wondered if there was any justification for this strategy. I thought possibly the Soviet Union, knowing that Hitler was going to war anyway, had tried to make a bargain that would save as much territory as possible from Hitlerism; and so I decided to wait, to give them the benefit of the doubt, but after I had waited about a month and a half, or 2 months, I knew I could not accept this and resigned.

Mr. Tavenner. Well, during that period of time were you visited by functionaries of the Communist Party who endeavored to give the party line or the new party line to your group?

Mr. Davis. Indeed, yes; it was a period of intense activity, especially among professional groups because they realized how profound a shock this was to genuine anti-Fascists and they had to work desperately to hold the line to keep people from breaking. There were a succession of meetings—very long meetings.

Mr. Tavenner. And, as you look back upon it now, was this just not another effort on the part of the Communist Party to dictate to its members how they should think——

Mr. Davis. Certainly.

Mr. Tavenner. And act upon any given subject?

Mr. Davis. Certainly, except that in this country it had to take the form of persuasion, since they had no means physically of keeping a person from leaving the party. Therefore, they had to do it through argument and pressure of all kinds.

Mr. Tavenner. But was opposition tolerated among those who remained in the party?

Mr. Davis. Not opposition; no. There was a period of discussion, as they called it, before the new line was formed; but, once the new line was formed, then criticism of it would lead to expulsion.

[fol. 315] Mr. Tavenner. So, if a person desired to remain

a Communist he had to agree with the Communist Party line that was handed down to him?

Mr. Davis. Yes.

Mr. Tavenner. Now, who were those who attempted to control the thought of you professors at Harvard on that subject?

Mr. Davis. They were the official leaders of the party in New England, and if I'm not mistaken Frankfeld was still there at that time—oh, yes; I am sure he was. He was the principal speaker.

Mr. Tavenner. Now, were there any other organizations which you were directed or induced to become active in? I mean organizations which were not Communist organizations?

Mr. Davis. There was an association of scientific workers, I remember, but those who joined that were scientists and not the members of the group generally.

Mr. Tavenner. Was it a union?

Mr. Davis. No; it was a more or less informal voluntary organization of scientific workers.

Mr. Tavenner. What was the purpose in having the members of your group to infiltrate that group of scientists?

Mr. Davis. I don't know because I didn't take part in it, you see, since I wasn't a scientist; but I knew there was a good deal of interest in it on the part of some members of the group.

Mr. Tavenner. Well, was it true that only those Communists who were scientists were asked to unite with that group?

Mr. Davis. So far as I remember; yes.

Mr. Tavenner. Did you hear any discussions which would indicate the purpose of infiltrating this group of scientists?

Mr. Davis. No; I don't recall discussions. It would be pure inference on my part. Some of the members in Cambridge were also responsible for founding the magazine Science and Society which is a broad theoretical quarterly which has continued until the present time.

Mr. Tavenner. Were you urged to become active in any other group or organization that you can now recall?

Mr. Davis. No; I don't remember any specific suggestions. Communists always worked principally in their professional or trade unions.

Mr. Tavenner. Well, let us turn now, then, to the second division of the activities of your group, that is, the conduct of Marxist study groups. Will you tell us about that, please?

Mr. Davis. It was fairly easy to form them because at this time, again for the reasons I stated this morning, there was lively interest in Marxism; and though I think persons joining these groups had some idea that the instructors were close to the Communist Party they, nevertheless, were ready to discuss Marxism with them, and in some cases actually the persons whom the party secured were not actually party members but were intellectual social scientists who knew a good deal about Marxism and were willing to discuss it before a group.

Mr. Tavenner. And what was the Communist Party purpose in establishing these Marxist groups?

Mr. Davis. They had a double purpose; first, to disseminate Marxism, which is one of their important princi- [fol. 316] ples always and everywhere; and also these were very—it was a very good way of recruiting members into the Communist Party because if members of these study groups seemed convinced of the truth in Marxism, then they were urged to join the party.

Mr. Tavenner. Do you recall any instances in which members of the faculty at Harvard were recruited to the Communist Party through the Marxist group studies?

Mr. Davis. I can't recall the names because I don't remember now by what process the various parties came into the party, but I am sure it was effective in 2 or 3 cases at least.

Mr. Tavenner. Would you describe it as an effective means of recruiting persons into the Communist Party?

Mr. Davis. Extremely effective among intellectuals, yes, because intellectuals ordinarily joined immediately at least for theoretic or intellectual reasons.

Mr. Tavenner. Were those study groups provided in any manner by functionaries of the Communist Party on a higher level?

Mr. Davis. Not directly; no. They encouraged the formation of them, but they left this to the members of the teachers' group who were better able to present it to other teachers.

Mr. Tavenner. Did these study groups include the issuance of Communist Party literature to the individuals and the requirements of study of particular documents and books in which the Communist Party was interested at the time?

Mr. Davis. Yes, but primarily these were the classics, Marx' Das Kapital, the works of Engels, and so on.

Mr. Tavenner. The Communist Manifesto——

Mr. Davis. Yes.

Mr. Tavenner. I assume was one. State and Revolution?

Mr. Davis. Yes.

Mr. Tavenner. Left-Wing Communism?

Mr. Davis. I don't know that they were—that they would deal with quite so a sectarian work with a broad group.

Mr. Tavenner. I believe you said Das Kapital——

Mr. Davis. Yes.

Mr. Tavenner. Was one of the studies.

History of the Communist Party of the Soviet Union?

Mr. Davis. No; that again was a little too immediately a party document and might alienate intellectuals.

We were, however, instructed to distribute that book as widely as possible.

Mr. Tavenner. But you thought it was a little dangerous or the group thought it was a little dangerous to do so until the person invited in had become well indoctrinated in Marxian theory?

Mr. Davis. Yes; that is right.

Mr. Tavenner. Generally.

Did you read and study any of the works of Foster?

Mr. Davis. Foster?

Mr. Tavenner. Yes, the head of the Communist Party of the United States.

Mr. Davis. Not systematically, but members, themselves, were expected to keep up with all the relevant party literature and it was very often brought to meetings for the use of members.

[fol. 317] Mr. Tavenner. I want to read you a paragraph from Towards Soviet America by William Z. Foster, printed in 1932, relating to the subject of education. I quote as follows:

Among the elementary measures the American Soviet government will adopt to further the culture revolution are the following:

The schools, colleges, and universities will be coordinated and grouped under the National Department of Education and its State and local branches.

The studies will be revolutionized, being cleansed of religious, patriotic, and other features of the bourgeois ideology.

The students will be taught on the basis of Marxian dialectical materialism, internationalism, and the general ethics of the new Socialist society.

Present obsolete methods of teaching will be superseded by a scientific pedagogy.

Religious schools will be abolished.

Do you recall having read or having that passage brought to your attention while you were a member of the Communist Party?

Mr. Davis. No. This is the pattern, however, that had been followed in Communist countries and one could assume now, and assume then, it would be followed if a Communist government came into power in the United States; but the Communist line had shifted somewhat in the later 1930's—that was the period when Browder's slogan "Communism Is 20th Century Americanism" was being used—and again the Communists were reluctant to offend those they might bring into the broad united front and they used a somewhat subtler approach.

Mr. Tavenner. The Communist Party, as such, however, was extremely interested in the teaching profession; was it not?

Mr. Davis. Certainly.

Mr. Clardy. Still is; isn't it?

Mr. Davis. I would guess so.

Mr. Tavenner. And let me read you an excerpt from the Communist of May 1937, entitled, "The Schools and the People's Front," by Richard Frank. Richard Frank was a member of the Education Commission of the Young Communist League. He had this to say:

> The task of the Communist Party must be, first and foremost, to arouse the teachers to class consciousness

and to organize them into the American Federation of Teachers, which is the main current of the American labor movement.

In the effort to organize the teachers, every care must be taken to bring together in united front actions all existing teacher organizations. Especial attention must be paid to secure such action with the American Association of University Professors, the National Educational Association, and the Guild. Our party members in these organizations must work actively toward this end.

Well, did your experience in the Communist Party at that time indicate to you that the Communist Party members in those organizations were working——

Mr. Davis. Certainly.

Mr. Tavenner. To that extent?

Mr. Davis. Certainly.

The AUP, as I remember, was not active at Harvard. The energies there were thrown entirely in the Teachers' Union, but what you just read was consistent with my experience of what occurred in the Teachers' Union.

Mr. Tavenner. I continue to read:

Communist teachers cannot afford to ignore this fact: That they come in contact with the children of the masses; that they are responsible for training these children.

[fol. 318] Communist teachers are, therefore, faced with a tremendous social responsibility. They must consider not merely their own teacher problems but the problems of the children. They must take advantage of their positions without exposing themselves to give their students, to the best of their ability, working-class education.

Now, it appears from that the Communist Party had for its objective the influencing of students without the student realizing or knowing that the teacher was, in fact, a Communist Party member.

Well, now, again the reporter is unable to get your answer.

Mr. Davis. Oh, I see. Yes.

Mr. Tavenner. Again, from your experience while a member of the Communist Party for this short time, did you recognize that that was the purpose and the objective of the Communist Party?

Mr. Davis. That was quite clear from the publications of the American Federation of Teachers or some articles in these publications intended for the teachers in the public schools.

As I said this morning, for a variety of reasons at Harvard there was never any direct attempt to influence the teaching in the classes.

Mr. Tavenner. Did any of your students at any time suggest to you that they had concluded that you were a member of the Communist Party?

Mr. Davis. No; as I told the investigator, quite the contrary happened. The year when I was most active as a member of the Communist Party—and it was also a year in which the students were also conscious politically—a politically conscious student came up to me at the end of the year and said he had been trying to figure all year just what my position was, and I think all of us who were at Harvard, who were liberals, had a somewhat ambiguous attitude toward this. We did want to influence our equals intellectually, but we had a lurking feeling that it wasn't quite good sportsmanship to try to influence young people—at least to make use of our position in the classroom to do this.

It seems inconsistent, but I think the evidence of others in that same group will be of the same character.

Mr. Tavenner. Well, I am very glad to know you had that feeling about it, but how can you be certain that all had that feeling?

Mr. Davis. Oh, I can't. I am speaking now only of the group of people in the unit at Harvard, most of whom broke with the Communist Party shortly afterward because at Harvard they were not indoctrinated Communists.

Mr. Tavenner. It is true, however, the opportunity for such influencing existed?

Mr. Davis. It had.

Mr. Tavenner. And it is merely a matter as to whether the Communist Party took advantage of it?

Mr. Davis. And I am quite sure in many places teachers did take advantage of it.

Mr. Clardy. Of course, you are speaking now only within the classroom; you are not talking about activities that may have been indulged in outside of that?

Mr. Davis. Oh, no. The members of this group often addressed political meetings of students.

Mr. Clardy. There they did——

Mr. Davis. Then they did.

[fol. 319] Mr. Clardy. Pardon me.

Mr. Davis. Go ahead.

Mr. Clardy. They did address meetings outside the classroom to accomplish the party objective without any feeling they were running contrary to their conscience?

Mr. Davis. They did address political meetings, yes, and did take the Communist line in these meetings; and students attended these meetings and the prestige of the teacher there would undoubtedly have had an effect.

Mr. Tavenner. Continuing to read from the article mentioned:

> To enable the teachers in the party to do the latter——

And by "latter" is meant the teaching of the working class, the giving of a working-class education——

> the party must take careful steps to see that all teacher comrades are given thorough education in the teachings of Marxism and Leninism.
>
> Only when teachers have really mastered Marxism and Leninism will they be able skillfully to inject it into their teaching at the least risk of exposure and at the same time to conduct struggles around the schools in a truly Bolshevik manner.
>
> Such teachers can also be used to advantage to conduct classes in Marxism, Leninism, for workers generally, and many such teachers should be assigned not to school units but to factory or industrial units where they can have great aid in party education in helping with leaflets, shock papers, and so forth. Others can play an important role in the educational activities of the Young Communist League.

Now, do you know, from your experience, whether any members of your group taught Marxist-Lenin classes in industry or in any group outside of the faculty at Harvard?

Mr. Davis. Yes; I think they certainly did go to lecture to groups in various outlying suburbs.

Mr. Tavenner. What was the nature of those group meetings they attended? Were they regular Marxist classes?

Mr. Davis. In some cases, yes, corresponding to the classes that were run for teachers. Teachers would also be asked to go to places like Revere and Chelsea and speak to study groups.

Mr. Tavenner. Now, can you be more definite as to the places at which some classes were conducted?

Mr. Davis. No; I can name only the towns. They are the industrial towns around Boston where there were Communists in the unions at that time, and the Communists in the unions would organize Marxist study groups just as the teachers did, and from time to time individual teachers would be asked to come and speak to those Marxist study groups.

Mr. Tavenner. How were those invitations extended? Were you directed to go by a higher functionary of the party or was it just on invitation?

Mr. Davis. It was done——

Mr. Tavenner. On the rank-and-file members?

Mr. Davis. In a more or less personal way, yes. Trade union organizers would meet teachers in various front organizations and would ask them to come and speak.

Mr. Tavenner. I would like to read one more paragraph from this article:

> In rural communities teachers who are among the few educated people are looked up to with tremendous respect. They are in a position to become community [fol. 320] leaders. As a means of mobilizing the people in the villages and countryside, steps should be taken to try to send Communist teachers into rural communities where they should become active in all community organizations.

Did you have any experience with a matter of that kind?

Mr. Davis. No; my activities didn't extend that far.

Mr. Tavenner. Now, will you advise the committee of any other matters relating to your study groups and your programs as conducted in your meetings which would throw any light upon the activities of your organization?

Mr. Davis. No; I don't think I can add anything significant.

A great deal of time was spent in going over the names of persons who might be sympathetic to the party and might be drawn closer to its activities.

Mr. Tavenner. Now, do you recall that your group engaged in the preparation of any pamphlets for use by the Communist Party?

Mr. Davis. Yes, Granville Hicks and I collaborated on a pamphlet against anti-Semitism.

Mr. Tavenner. Was Granville Hicks a member of your group?

Mr. Davis. For 1 year.

Mr. Tavenner. Of the Communist Party?

Mr. Davis. For 1 year; yes.

Mr. Tavenner. I should state, Mr. Chairman, that Mr. Granville Hicks has cooperated with the investigators of the committee and we are expecting his full cooperation and that, according to our investigation, he withdrew from the Communist Party at approximately the same time that the witness did and that he's been active in his opposition to the Communist Party ever since.

Mr. Velde. I take it, from your testimony so far, Mr. Davis, that you also have been active against communism since your withdrawal?

Mr. Davis. Yes; I have some quotations from my published writings here if anyone wishes to see them.

Mr. Tavenner. I am going to ask you about that in a few minutes.

Now, did you submit the material which you were proposing to use in pamphlet—that is, you and Mr. Granville Hicks—to any functionary of the Communist Party for review?

Mr. Davis. Yes; Phil Frankfeld went over it with great care and attention.

Mr. Tavenner. Do you know whether Phil Frankfeld, himself, was capable of giving it the criticism that was given it or whether he, in turn, transmitted the material on to some higher functionary of the Communist Party, such as V. J. Jerome, who was about that time the cultural head of the Communist Party?

Mr. Davis. He may have but I don't think this was important enough from their point of view. His suggestions were largely political. I think he was a high enough functionary so that he would have been entrusted with that responsibility.

Mr. Tavenner. Did you have a memorandum in relation to that matter?

Mr. Davis. Yes; I submitted——

Mr. Tavenner. Which you submitted to the committee?

Mr. Davis. Yes.

Mr. Tavenner. I hand you a document which I will ask be marked "Davis Exhibit 1" for identification only, and ask you whether or not that is the document to which you refer.

Mr. Davis. It is.

[fol. 321] Mr. Tavenner. I desire to offer the document in evidence and ask that it be marked "Davis Exhibit No. 1"

Mr. Velde. Without any objection, it will be received.

(Said document was received in evidence as "Davis Exhibit No. 1.")

Mr. Tavenner. Now, I desire, Mr. Chairman, to read this comment in evidence because it points out the approach of the Communist functionary not only to the particular subject under consideration, but to writings generally.

Comment

Excellent material; the historical material and quotations are well selected and introduced.

The conclusions are not sharply drawn. The argumentation remains somewhat suspended in the air.

There is completely defensive argumentation on the question of the Jews and communism. There must be a straight-forward presentation of the right of Jews to be revolutionists. The argument of the pamphlet

follows almost exactly that of the American Jewish Congress.

The point should be introduced about the support given by the rich Jews to Hitler in his first stages of development. The poor Jews supported the Communist Party. There is no sufficiently sharp line drawn between the rich Jews and the poor Jews. A good illustration of this point would be the Boston garment workers' strike of 1936 when the Jewish bosses called out the Irish cops to club Jewish and Italian workers indiscriminately.

More facts should be introduced about numbers of Jews on relief, and so forth.

There is very little appeal made to the Protestants; also, the section on the Catholics should be strengthened.

At the close, introduce the relationship of anti-Semitism and the American reaction today. Illustrate the use of anti-Semitism against even Roosevelt, against Lehman in the recent election campaign. Point out that the only answer of Jews to Coughlin must be to identify themselves more and more with the progressive camp, against reaction and Red-baiting, for the building of a strong peace movement, which is, itself, the struggle against fascism and anti-Semitism. Raise the question of the unity of the labor movement and building it, the support for social and labor legislation as the truest basis for democracy and the elimination of the basis for anti-Semitism.

Mr. Jackson. Will counsel identify that again? Is this the critique by Frankfeld on the work you had done, Mr. Davis?

Mr. Davis. Yes; the rough draft of the pamphlet.

Mr. Jackson. Were those suggested changes incorporated in final draft?

Mr. Davis. I believe so.

Mr. Jackson. Thank you.

Mr. Tavenner. Professor Davis, we have ascertained by a very definite evidence in the course of our hearings in Hollywood of the effort made by the Communist Party to put

its members, who are writers, in a mental straitjacket in determining how they shall write and how they shall treat their subject. Did you have any experience with the Communist Party in writing other than this?

Mr. Davis. No; this the only indication which I remember direct advice of this sort, because I think this is the only work I did under Communist Party control of this nature.

Mr. Tavenner. Were you given to understand that your work had to be acceptable?

Mr. Davis. Yes.

Mr. Tavenner. To the higher functionaries of the Communist Party?

Mr. Davis. But, of course, at that time we, ourselves, tried to make it conform to the line because we accepted the line. [fol. 322] Mr. Tavenner. Now, let us go to the third and last division of the activities of your group—that of fund raising.

Now, will you tell the committee what the activities of your group were in that respect?

Mr. Davis. The party was extremely greedy for money. Not only did we pay quite large dues, but extra donations or assessments were constantly being made. All sorts of means were being used to raise money, by having parties, dances, lectures, and so on. This was a very large part of our activity.

Mr. Tavenner. What were the dues that you paid?

Mr. Davis. As I recall correctly, they were 5 percent of one's salary.

Mr. Tavenner. Why, they charged you more than they did the directors in Hollywood. It was only 4 percent there.

Mr. Clardy. The directors' salaries were slightly larger than yours, weren't they?

Mr. Davis. Yes.

Mr. Tavenner. Did all the members of your group pay 4 percent of their salary while members?

Mr. Davis. It may have been graduated according to the size of the salary. That I don't remember; but, in my own case, it seems to me 5 percent was the amount.

Mr. Tavenner. Then, were special assessments made for particular projects of the Communist Party?

Mr. Davis. Constantly. It was always represented that the Daily Worker or some other magazine was in a state of emergency and that extra efforts must be made to obtain money.

Mr. Tavenner. Well, who was the contact with your committee on matters of that kind?

Mr. Davis. Whoever was moving between us and the central office of the party—people like the ones I mentioned this morning, such as Hy Gordon or Margot Clark.

Mr. Tavenner. How do you spell Clark?

Mr. Davis. C-l-a-r-k.

Then, also, we raised money for Spain, but a good deal of that, I suspect, went actually to the party, not to Spain.

Mr. Tavenner. What reason do you have for stating that much of the funds raised for Spain or Spanish relief were used by the Communist Party for its own purposes?

Mr. Davis. I didn't know at that time. It was just as a result of subsequent revelations.

Mr. Tavenner. Tell us a little more in detail about these special assessments for the benefit of the Daily Worker and other——

Mr. Davis. Sometimes——

Mr. Tavenner. Communist Party enterprises.

Mr. Davis. Sometimes it was a definite assessment. That is, each member was expected to give the equivalent of his dues—I mean an additional amount the equivalent of his dues. Sometimes it was voluntary, just asking for money; sometimes members were instructed to approach sympathizers and ask them to give money—not to the party, but to some cause, like a magazine or Spanish relief.

Mr. Tavenner. At an earlier point in your testimony you identified Bill Parry as a person who was known to you to be a member of the Communist Party. What was the basis of your knowledge?

Mr. Davis. Participation in unit meetings.

[fol. 323] Mr. Tavenner. Was he a member of your individual group?

Mr. Davis. Yes.

Mr. Tavenner. Were you acquainted with Jack Rackliffe——

Mr. Davis. Yes.

Mr. Tavenner. R-a-c-k-l-i-f-f-e?

Mr. Davis. Yes.

Mr. Tavenner. Was he a person known to you to be a member of the Communist Party?

Mr. Davis. Yes.

Mr. Tavenner. On what do you base your information, your knowledge?

Mr. Davis. Appearance at a large number of Communist unit meetings.

Mr. Doyle. Which meetings you also attended——

Mr. Davis. Yes.

Mr. Doyle. With him?

Mr. Davis. Yes.

Mr. Tavenner. Was that your own group or cell of the Communist Party which you previously identified?

Mr. Davis. Yes.

Mr. Tavenner. Were you acquainted with a person by the name of John Henry Reynolds?

Mr. Davis. Yes, and I recall that one of the emergency meetings I spoke of that occurred after the pact was held at his house.

Mr. Tavenner. And I should ask you at this time if you know of your own knowledge that any of these persons have since terminated their affiliations with the Communist Party, that you should state so.

Mr. Davis. I surely will.

Mr. Tavenner. Up to this point, you have no knowledge?

Mr. Davis. No, except in the case of Granville Hicks.

Mr. Tavenner. Yes.

Daniel J. Boorstin?

Mr. Davis. He was a member, but I know he has broken long since.

Mr. Tavenner. And, Mr. Chairman, Dr. Boorstin, according to our investigation, did withdraw many years ago from the Communist Party and has cooperated and is cooperating with this committee in giving it the benefit of information he has and, like this witness, has been an outstanding opponent of communism since taking that action.

Richard Schlatter?

Mr. Davis. Yes; he was also a member.

Mr. Tavenner. Of this same group?

Mr. Davis. Yes.

Mr. Tavenner. And what I had to say about Mr. Boorstin stands equally for Richard Schlatter.

Were you acquainted with Richard Goodwin?

Mr. Davis. Yes; he also was a member of the group of the Communist Party.

Mr. Tavenner. Do you have any information as to whether or not he has withdrawn from the Communist Party?

Mr. Davis. I don't know directly, but all impressions I've gathered would lead me to suppose so.

Mr. Tavenner. Were you acquainted with a person by the name of George Mayberry?

Mr. Davis. Yes; he was a member of the group.

[fol. 324] Mr. Tavenner. Of this same group?

Mr. Davis. Yes.

Mr. Tavenner. Are you acquainted with Israel Halperin?

Mr. Davis. Yes.

Mr. Tavenner. H-a-l-p-e-r-i-n—Halperin.

Mr. Davis. I am. Yes, I was. He was a member of the group.

Mr. Tavenner. When did you first become acquainted with him?

Mr. Davis. I'm not sure. I don't think he was a member when I first joined. It must have been the next academic year.

Mr. Tavenner. Was there anything outstanding or unusual about his contribution to the work of the Communist Party in your group, while you were a member?

Mr. Davis. No; I don't recall any. I remember him very well. I know he was interested in the foundation of the magazine of Science and Society, but was also very critical of the editors of it.

Mr. Tavenner. Do you know where he is now?

Mr. Davis. I know of his subsequent history from the accounts of the Canadian spy investigations. I know he was involved in that case but not convicted.

Mr. Tavenner. He is in Canada today now?

Mr. Davis. I assume so.

Mr. Tavenner. Herbert Robbins?

Mr. Davis. He was a member the first year I belonged. He left Harvard the second year. I have every reason to believe, on the basis of a long conversation with him 3 years ago, that he broke perhaps before I did.

Mr. Tavenner. Were you acquainted with Rubby Sherr—S-h-e-r-r?

Mr. Davis. Yes; he was a member of the group for a comparatively short time, but I think he was still a member when I left.

Mr. Tavenner. Or Wendell Furry—F-u-r-r-y?

Mr. Davis. I knew him very well. He was a member of the group.

Mr. Tavenner. Was he a member of the group when you left Harvard?

Mr. Davis. Yes—not when I left Harvard. I have no way of knowing when I left Harvard because I left Harvard 3 years after I left the party, nearly 4 years.

Mr. Tavenner. Oh, yes, but was he a member of the party when you left the party?

Mr. Davis. Yes.

Mr. Tavenner. Are you acquainted with the Henry Thoreau professional section of the Communist Party?

Mr. Davis. No; I never heard of that, to my knowledge.

Mr. Tavenner. During the period of your experience in the Communist Party did you learn whether members of the Communist Party from England, who were in attendance at universities in this country, on any occasions would have their membership transferred to the Communist Party of the United States?

Mr. Davis. I recall a Henry fellow, I believe he was called—a Henry fellow—who came to our unit when he was doing graduate work at Harvard. I do not recall his name now.

Mr. Tavenner. Do you know of any other occasions when students from England were transferred to membership in the Communist Party in the United States?

[fol. 325] Mr. Davis. There may have been two of these Henry fellows, of that I can't speak certain, but that is the only connection I recall.

Mr. Tavenner. Now, I asked you in the beginning of your testimony whether or not you had been active in your opposition to the Communist Party since you withdrew, as you have indicated. What in general has been the nature of your work against the Communist Party?

Mr. Davis. It's been partly organizational, but mostly literary. I resigned in protest from the League of American Writers early in 1940, because of their attitude toward Hitler and the war.

When I went to Smith, I joined the Teachers' Union and struggled against the group there, led by Dorothy Douglas and Katherine Lumpkin, but the union took an increasingly Wallacite position in the later forties, and I resigned from the union in protest in 1948. I was one of the 88 intellectuals who signed the statement published in the New York Times on March 24, 1949, calling attention to the true nature of the Waldorf Scientific and Cultural Conference.[1]

I have been from the beginning a member of the Committee for Cultural Freedom, headed by Sidney Hook, and have contributed to Partisan Review of the Commentary and the New Leader, all magazines which have for years fought Stalinism with informal intensity.

I have written for the New York Times regularly for the book review section over the past 10 years, and I have here quotations from articles which state my present devotion to democracy in unqualified terms.

I wrote for the magazine, Commentary, only a year ago, in May 1951, an article on Soviet psychiatry, showing the relationship between Soviet psychiatry and the destruction of the individual.

May I read three sentences from that?

Mr. Tavenner. Yes, sir.

Mr. Davis. There is a review of a book by Dr. Wortis called Soviet Psychiatry, and I say:

> But what Dr. Wortis's book emphatically demonstrates—if it needed demonstrating—is the iron logic

[1] Scientific and Cultural Conference for World Peace, arranged by the National Council of the Arts, Sciences, and Professions, held at the Waldorf-Astoria Hotel in New York City, March 25, 26, and 27, 1949.

> behind communism's utter extinction of the individual self. This logic is orthodox in theory—it is explicit in Marx, Engels, and Lenin—and it has been appallingly proved and demonstrated in practice. The confessions of opponents of the regime at Communist trials show that by "immediate pressure of the environment—"

That is quote——

> by torture, narcosis, hypnosis, and indoctrination in various combinations, the self's organic past can actually be negated, and that it can be made to "reflect" completely the party-partisan view of reality. Since those who do not come to reflect this reality are considered ultimate enemies of the people, there is no moral limit to the use which may be made of these psychological, physical, and medical means of extinguishing the self.

And then I say later on at the end of the article:

> A genuine struggle against Russian antihumanism should require our putting as much effort as we possibly can into discovering what social and political grounds still exist—or can be made to exist—in our contemporary society for the survival of what David Riesman calls the autonomous individual.

And then I go on to develop that view.

[fol. 326] Mr. Tavenner. When was that written?

Mr. Davis. That was written in May 1951, but I have citations of earlier articles along the same line.

Mr. Tavenner. Mr. Chairman, I think that is all I desire to ask, unless the witness has something else to add that he may want to add——

Mr. Davis. No.

Mr. Tavenner. To his testimony.

Mr. Davis. As I said this morning, I think such investigations are necessary, if they are carried out fairly and scrupulously. All I am afraid of is that so much energy, political energy, may be directed toward a preoccupation with the past, that we may not have enough left to find

creative solutions for problems that face us in the future.

I think, for instance, that it's right to go back into the history of China and find out why that disaster occurred, and whether it occurred as the result of espionage of improper influence by Communists within the Government, but we want to be sure that this will help us to solve the problems of India and Africa, for instance.

It's not enough to discover what went wrong in China.

We've got to keep the same thing from happening in other parts of the world, and it is this danger with which I, myself, am preoccupied at the present time.

Mr. Clardy. You mean we should profit from our past mistakes?

Mr. Davis. We've got to profit from our experience and not let India, Africa, and Europe go as China went.

Mr. Velde. Mr. Davis, we certainly do appreciate your coming before the committee. Are those documents which you have there available to the committee for its files or references?

Mr. Davis. Yes.

Mr. Velde. We will be glad to accept those into our files for study of our investigators and counsel whenever necessary.

Now we have another witness to appear this afternoon, but I think some of the members might want to ask you a few questions, Mr. Davis, and the Chair would very much appreciate it if the members of the committee would limit their examination of Mr. Davis so that we might hear the other witness.

Proceed with the questions you might have.

Mr. Jackson.

Mr. Jackson. I shall try to make my questioning brief, Mr. Chairman.

Mr. Davis, I am not asking you to enter into the realm of opinion, but out of your own experience in the Communist Party during the period of time you were a member to what extent would you say that one submits himself to the expressed or implied discipline of the Communist Party?

Mr. Davis. This is often, I believe, a motive for joining because those who join desire certainty. They want a line

which will give them a sense of significant action. The Communists always have an answer to everything. The answers aren't always very good, but he does have an answer. This is part, unquestionably for many people—the part of the psychological satisfaction of being a Communist.

Mr. Jackson. In the event of a mental conflict, having to do with some philosophical position, what resolution of the problem would be expected by the Communist Party?

[fol. 327] Mr. Davis. The member has got to work through to an acceptance of the line.

Mr. Jackson. That is definitely understood——

Mr. Davis. Yes.

Mr. Jackson (continuing). By both the member and the Communist Party.

Do you believe, sir, that a member of the Communist Party today is equally subject to the type of discipline that we have been discussing?

Mr. Davis. Much more so because, it seems to me, what is going on in Communist countries now is so inconsistent with ordinary humanity or ordinary reason that a person must have to force himself to accept it; and I think in many cases it happens because a Communist Party member has given up his life for the party over a great many years. If he left the party, he would be nothing. So, he stays in, even though much that is going on is unacceptable to him as a normal man.

Mr. Jackson. In light of that understood acceptance of the discipline, could a Communist teacher or professor today be an objective pedagog?

Mr. Davis. As I said this morning, in certain areas he still could because people are capable of divided minds; but I don't think this could happen in the social sciences, and I think he would undoubtedly be influenced even in the humanities. In the sciences, this might not happen at all.

Mr. Jackson. Would you say the keystone of education is the ability of a teacher or a professor to present his subject with absolute objectivity?

Mr. Davis. I don't think absolute objectivity is possible for anyone except a scientist. I think often a teacher is a better teacher because he does have convictions. His teaching is more interesting. The students have something to

relate what they're learning to. It's a question again of degree, of the fairness of the teacher.

Mr. Jackson. We have heard a great deal, Professor Davis, on the subject of "academic freedom." I am not quite certain that I, for one, understand actually what is meant by "academic freedom." Could it be summed up very briefly?

Mr. Davis. No; I should think it would be very difficult to try, but it is related to what I was just saying, that the interest of teaching depends partly on the freedom of play of ideas. The teacher himself and the student should be able to approach ideas from the different points of view within the classroom; but, also, the greatest teachers in the past, from the time I think of Plato and Aristotle, have been men with convictions, with a coherent body of beliefs which they presented to the students, and these are often different beliefs from those held by members of the same department, but in a large university a student going from class to class can absorb these structures of ideas, can play them off against each other, can come to his own opinions.

Mr. Jackson. Have any questions been asked of you today, Professor Davis, which you would consider to be an infringement of academic freedom as distinguished from the charge upon this committee of investigation?

Mr. Davis. No; definitely not. But I do think——

Mr. Jackson. Is it my understanding, to sum up——

[fol. 328] Mr. Davis. If I may add one thing——

Mr. Jackson. Yes.

Mr. Davis. I do think the loose use of the word "Communist" in the last 4 or 5 years has made teachers in some colleges and universities afraid to speak out on controversial questions for fear they may be called Communists. I think a certain amount of timidity exists now that didn't exist in the past.

Mr. Jackson. To sum up the substance of your presentation today, I think the committee can assume from the testimony that the Communist Party did:

(1) Make an effort to recruit teachers and professors into the Communist Party?

Mr. Davis. Yes.

Mr. Jackson. (2) Having recruited them, the party did, by directive or otherwise, lay down certain broad policies which these teachers and professors were expected to follow:

Mr. Davis. Yes.

Mr. Jackson. (3) The Communist Party expected teachers, professors, and others in education, to infiltrate other teacher groups with the idea of putting forward policies and directives enunciated by the Communist Party?

Mr. Davis. Yes.

Mr. Jackson. And (4) to exercise generally, on behalf of the Communist Party, what influence they could?

Mr. Davis. Yes.

Mr. Jackson. And (5) to influence, to the extent possible, the election of group leaders and others within the popular front who were individuals known to be favorable to the policies of the Communist Party?

Mr. Davis. Yes.

Mr. Jackson. Is there any reason to believe, Professor, that the Communist Party line, with respect to education in general, has in any way changed since it was enunciated by Lenin?

Mr. Davis. No.

Mr. Jackson. I should like to add a word of thanks. I think, Professor Davis, you have rendered a tremendous service to the committee and to the country in your very able and lucid presentation here today. It would be my hope that no reprisals—economic, political, or professional—would be visited against you by any person because of your testimony here today. Thank you very much.

Mr. Davis. Thank you.

Mr. Velde. Mr. Clardy.

Mr. Clardy. May I join with my colleague in saying that—to go one step further—I think the kind of contribution you are making, sir, is probably one of the most effective strokes against communism that can possibly be made; and, speaking now for myself, as a new member on this committee, I want you to know I am delighted to have had you before me as the first witness we have had the pleasure of interrogating.

But now, another subject, briefly: You gave me an interim answer which got a little laughter earlier when I suggested you tell us whether our conduct was such that you approved. You said it had been up to that time. As I phrased the question, do I understand your answer to Mr. Jackson [fol. 329] as being that you now, we having concluded, are willing to say that you do think the manner in which we have conducted this is wholesome and good?

Mr. Davis. Yes; I am entirely willing to say that.

Mr. Clardy. You also said something in answer to Mr. Jackson that I would like to explore just very briefly. You were talking on the subject of academic freedom and, while I digress, I assume it is not your intention, any more than that of the committee, to attack either the colleges or the groups as a whole into which Communists have infiltrated as described by you; am I right in that assumption?

Mr. Davis. Yes.

Mr. Clardy. Of course, you understand we are not interested in trying to smear or besmirch the name of anybody, any individual, school, or institution. Heaven knows in my own profession, as a lawyer, what the lawyers have to contend with—and if there is any worse than that, I don't know what it is; but, at any rate, you indicated in the field of academic freedom there might be a little dangerous ground, we would have to tread lightly, and you have approved the way we are treading so far, but isn't it true that one who professes to be and actually is a Communist is a little bit different from those who adhere to Plato or Aristotle's teachings, or someone else? Isn't he a dangerous person to be at loose in the field of education?

Mr. Davis. Yes. In this statement I have one sentence as follows: "I do not think we should allow the language of liberalism and democracy to be used by those who would destroy liberalism and democracy." That is, I think the Communists necessarily in universities today are dishonest in what they say, whereas Aristotle and Plato were honest.

Mr. Clardy. And is not what you are doing and what this committee is doing directed toward and should be directed toward exposing those persons and those motives and the controls that are exerted over those persons?

Mr. Davis. Yes; I do. I think this dishonesty should be exposed.

Mr. Clardy. What I am leading up to is this: You probably read the piece in last night's paper and in this morning's paper by Bishop [G. Bromley] Oxnam attacking us rather severely, attacking us before we two freshmen members here had a chance to perform at organizing or saying anything and using what I rather regarded as the Communist method of smear. Now, I am just asking you: Don't you think the kind of exploration we have undertaken and carried on here today can and will serve a useful purpose despite what the eminent gentleman of the cloth may have said?

Mr. Davis. As long as groups of individuals do not misuse some of the testimony.

Mr. Clardy. Well, as I understand it——

Mr. Davis. Yes.

Mr. Clardy. You agree it has not been misused here today?

Mr. Davis. Yes; I agree.

Mr. Clardy. If we follow the pattern here of today, will you not say we are serving a most useful purpose in the defense of our country?

Mr. Davis. Yes; and if you speak out when others do misuse any of this testimony.

Mr. Clardy. I want to agree with you, and I am sure the rest of the members of the committee do, that we will at no [fol. 330] time attack teachers as teachers, schools as schools, churches as such, nor any of the other groups.

We are merely aiming at the very thing you are talking about, and I again want to thank you and say the people in your home community ought to be proud to have one who is willing to stand up and be counted in this terrific battle against the very dangers of the ages—it is godless communism against all the rest of us.

Mr. Velde. Mr. Scherer?

Mr. Scherer. I have no questions.

Mr. Velde. Mr. Doyle?

Mr. Doyle. Professor Davis, I wrote down here that you used this language in answer to one question:

I feel that being here today is an unpleasant duty, but one I must accept.

I am not sure I know just how to ask you supplemental to that what I want to know or get this from your fine thinking, but why did you feel it was a duty to come? Why did you feel you must accept it? What compelled you to come in and cooperate with this committee instead of pleading the first or fifth amendment or something?

Mr. Davis. Because I broke with the Communist Party 13 years ago because I could not stand the dishonesty and equivocation that we were inseparable from, being a member of the party, expressing one's doubts, pretending to other people a certainty which one really did not feel. I felt I would have spoken out at any time in these 15 years, but since I was summoned now, I was glad to use this opportunity to clear the record and say what I believed.

Mr. Doyle. Well, why don't more men of your mental capacity feel the same way and come forward and testify as you have?

Mr. Davis. Prejudice has been built up over the years, partly by the Communists themselves, but also for reasons that are quite understandable to anyone who has to see the operations of an honor system in colleges, a prejudice against informing. I think the American people generally dislike informers.

Mr. Doyle. May I ask one more question?

Under Public Law 601, which is the statute under which this committee is assigned a definite duty, one of our duties is to go into all questions with reference or relation to subversive and un-American propaganda which may aid in any necessary remedial legislation. Now, that is, I think, the exact wording of the last section of the statute under which we operate.

Have you anything to suggest to us which would help us in the field of remedial legislation on the subject of subversive propaganda or activities in our Nation?

Mr. Davis. No; I don't think my training really equips me to make a valuable suggestion there. I've had so little experience with law and legislation.

Mr. Doyle. May I ask you this one further question then? Did more than just you leave that cell at the university

when you left? I mean, was there any agreement between you and others that they would leave? Did others also open their eyes and come to feel that the Communist Party was dishonest, or were you the sole member of the cell that resigned at that time?

Mr. Davis. Two things happened: First, a member or members of the unit left to go to other colleges in the nor- [fol. 331] mal course of their academic advancement, and I think instead of breaking formally with the party, they simply didn't join where they next went.

Others, I know, from testimony that will be given to you after I have left the stand, broke with the party in the weeks and months following, but my own leaving was an entirely individual matter. I came to these conclusions by myself.

Mr. Doyle. You mentioned 2 or 3 books and pamphlets, periodicals, that were published by or for the Communist Party. Have you in mind any small list of papers and periodicals that you believe now are the mouthpiece of the Communist Party in this country?

If you have, could you leave it with our committee so that we may have the benefit of it?

Mr. Davis. I'll do that, although I don't think I could add to what the investigators know.

Mr. Doyle. Thank you very much.

Mr. Velde. Mr. Frazier?

Mr. Frazier. No questions, Mr. Chairman, but I would like to take this occasion to thank the professor for the information and fine cooperation he has given the committee on this occasion.

Mr. Davis. Thank you.

Mr. Velde. Mr. Davis, I wanted to ask a few questions along the line of Mr. Clardy's questioning.

With reference to religion particularly, is there any question in your mind that if the Soviet Government and the American Communist Party were able to establish a philosophy of thinking here in the United States of America, that we would have any of our religious freedom left?

Mr. Davis. No; the destruction might be gradual for political reasons, but it would occur in time, if they could convince the young people that Marxist dialectic was the

true philosophy, because Marxist dialectic is inconsistent with a belief in religion.

Mr. Velde. Why, then, if communism is known to advocate destruction of religion all over the world, would so-called religious leaders—like Bishop [G. Bromley] Oxnam, Dr. Sayre,[3] and Reverend Davies[4]—oppose the efforts of this committee to expose communism and uphold freedom of our people to worship God as they please?

Mr. Davis. I don't think I could really enter into the motives.

Mr. Velde. Well, for the life of me I am not able to determine that either, but it seems that every time we hold an investigation, certain people do take opposition to our hearings, the manner in which we conduct them, and cite many facts which I believe, as you have so ably described, are untrue, and I want to say now I appreciate the compliment which you gave to this committee when you said you felt sure we were not interfering with the academic freedom or freedom involved in in any way.

It is a great pleasure and privilege for members of the committee to listen to you in your very fine statement which you made today. I am sure it is very valuable to this committee in its efforts to determine facts regarding Communist infiltration into education.

Now, we have had a formal call,[2] I believe, so we will stand in recess for 30 minutes.

[fol. 332] (Thereupon, at 3:33 p. m., the hearing was recessed, to reconvene at 4:05 p. m., the same day.)

* * * * * * *

[fol. 337] Mr. Kearney. The witness is excused.

The next witness, Mr. Counsel.

Mr. Tavenner. Mr. Granville Hicks.

Mr. Kearney. Mr. Hicks, do you swear that the testimony you will give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

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[2] Quorum call from floor of United States House of Representatives.

[3] Very Rev. Francis B. Sayre, Jr.

[4] Rev. Dr. A. Powell Davies.

Mr. Hicks. I do.

Mr. Kearney. You will be seated, please.

TESTIMONY OF GRANVILLE HICKS

Mr. Tavenner. You are Mr. Granville Hicks?

Mr. Hicks. Yes.

Mr. Tavenner. Are you represented or accompanied by counsel?

Mr. Hicks. No.

Mr. Tavenner. Do you desire counsel?

Mr. Hicks. No.

Mr. Tavenner. When and where were you born, Mr. Hicks?

Mr. Hicks. I was born in Exeter, N. H., on the 9th of September, 1901.

Mr. Tavenner. What is your present occupation?

Mr. Hicks. I am a free-lance writer.

Mr. Tavenner. Will you state for the committee, please, what your formal educational training has been?

Mr. Hicks. I was educated in the public schools of New Hampshire and Massachusetts. I did undergraduate work at Harvard and was graduated in 1923 with my A. B. degree. From 1923 to 1925 I was at Harvard Theological School.

You want only education now?

Mr. Tavenner. Yes.

Mr. Hicks. In 1928-29 I was back at Harvard and took my master's degree in English.

Mr. Tavenner. Excuse me. What was the date when you obtained your degree at Harvard?

Mr. Hicks. 1929. My A. B. degree in 1923; my master's degree in 1929.

[fol. 338] Mr. Tavenner. Will you tell the committee, please, what your work record or employment record has been since the completion of your formal education.

Mr. Hicks. Well, from 1925 to 1928 I was an instructor at Smith College. Then I went back to Harvard in 1928-29, as I have already said; and from 1929 to 1935 I was assistant professor of English at Rensselaer Polytechnic Institute in Troy. Since then I have had—no, I am sorry——

Mr. Tavenner. Will you spell the name of that school, please?

Mr. Hicks. R-e-n-s-s-e-l-a-e-r.

Mr. Tavenner. Rensselaer?

Mr. Hicks. Rensselaer.

Mr. Tavenner. And try to elevate your voice a little, if you please?

Now you were at Rensselaer College to 1935?

Mr. Hicks. 1935. Yes.

Mr. Tavenner. And from 1935 on how were you employed?

Mr. Hicks. Well, except for 1 year in that period I have been a free-lance writer. In the year 1938-39 I was a counselor in American civilization at Harvard College.

Mr. Tavenner. Mr. Hicks, you have appeared at a prior time before a subcommittee of this committee in executive session, have you not?

Mr. Hicks. Yes, sir.

Mr. Tavenner. You have advised the committee of most of the facts, I suppose, that you have within your recollection.

Mr. Hicks. Yes, sir.

Mr. Tavenner. Regarding your experience while a member of the Communist Party?

Mr. Hicks. Yes.

Mr. Tavenner. When did you become a member of the Communist Party?

Mr. Hicks. In the winter of 1934-35.

Mr. Tavenner. And how long did you remain a member?

Mr. Hicks. Until September 1939.

Mr. Tavenner. Since September 1939 have you been affiliated with any activities of the Communist Party, to your knowledge?

Mr. Hicks. Not if I knew it.

Mr. Tavenner. What has been your attitude and your record since 1939 with reference to the Communist Party?

Mr. Hicks. I have been, I think, consistently anti-Communist.

Mr. Tavenner. Will you tell the committee, please, the circumstances under which you first became a member of the party?

Mr. Hicks. Well, I had been a rather close fellow traveler for a period of 3 or 4 years; so close that I was actually an editor of the New Masses, which was, of course, a Communist magazine. I was an editor at a time when I was not a member of the party. It was very natural that I should be at some point or other recruited into the party. And when I was asked, in the winter of 1934-35—and it may have been December 1934, or January or February 1935, I don't remember—but when I was asked, I immediately agreed to join the party, and I did so.

Mr. Tavenner. Was that in the city of New York?

Mr. Hicks. That was in the city of New York.

Mr. Tavenner. Were you then employed as an editor of New Masses?

[fol. 339] Mr. Hicks. Well, employed is not the right word, since the New Masses never paid anything. I was an editor of the New Masses. I was employed at that time at Rensselaer Polytechnic Institute.

Mr. Tavenner. How long had you been on the editorial staff of the New Masses before you were invited into the party?

Mr. Hicks. Approximately a year. I became the literary editor of the New Masses when it was made a weekly in January 1934.

Mr. Tavenner. Who asked you to become a member of the party?

Mr. Hicks. Bernhard Stern.

Mr. Tavenner. Bernhard Stern. How was he employed?

Mr. Hicks. He was employed in some capacity at Columbia University. I don't know what his rank was.

Mr. Tavenner. Was he a teacher?

Mr. Hicks. Yes. I think so.

Mr. Tavenner. Tell the committee the circumstances under which he asked you to become a party member.

Mr. Hicks. I was living—I was not living in New York at that time. I was living in Troy. As I remember, he wrote and asked me if I would have a meal with him the next time I came to the city. I did so. We had dinner together and he simply asked me if I didn't feel I was now ready to join the party; and after we discussed it a little while I said that I did feel so.

Mr. Tavenner. Were you then assigned to a special group or any particular group of the Communist Party?

Mr. Hicks. Well, he took me to the group to which he belonged.

Mr. Tavenner. Then you became a member of the same group or unit of which he was a member?

Mr. Hicks. That is true; which was a group of professional people, writers mostly, in New York City.

Mr. Tavenner. Were there any other members of the teaching profession, members of that group, other than Prof. Bernhard Stern?

Mr. Hicks. Not to the best of my recollection. I think there were not any other teachers.

Mr. Tavenner. What was the activity in which that group engaged?

Mr. Hicks. My impression is I only attended one or two meetings because of not living in the city and not having to be there, and not happening to be there at the time when the group was meeting. I remember that at one meeting I attended there was a good deal of talk about preparations for the first Congress of American Writers. That is the only specific subject I can remember our discussing.

Mr. Tavenner. Did you become a member of the first Congress of American Writers?

Mr. Hicks. Yes. I presided, I think, at the opening meeting of that congress.

Mr. Tavenner. Was that an open meeting—open to the public generally?

Mr. Hicks. Yes.

Mr. Tavenner. It was a matter that was public knowledge in the city of New York and carried in the newspapers?

Mr. Hicks. Oh, very, very much so.

Mr. Tavenner. Were the other members of that Communist Party group to which you were assigned also members of that writers conference?

[fol. 340] Mr. Hicks. I think so. The first Congress of American Writers led, as I recall it, to the formation of the League of American Writers, an organization that went on for a number of years. My guess would be that all of the members of the group I belonged to were also members of the League of American Writers. I know that some of them were.

Mr. Tavenner. What was the approximate date of the first Congress of American Writers over which you presided?

Mr. Hicks. April or May 1935.

Mr. Tavenner. How long did you continue active in that organization?

Mr. Hicks. Only until the following summer. You mean now the party group I belonged to?

Mr. Tavenner. I was referring at the moment to the work of the first congress.

Mr. Hicks. To the League of American Writers?

Mr. Tavenner. And to the League of American Writers.

Mr. Hicks. I belonged to that until the winter of 1939-40, when I became convinced that the Communist domination was hopeless, and I got out. I might say parenthetically that there were a good many of us who had hoped, having broken with the party, or never having belonged to it——

Mr. Tavenner. Would you raise your voice?

Mr. Hicks. Yes. There were a good many of us who hoped during the fall and winter of 1939-40 that the league could be taken away from the Communists, but it proved to be impossible, and so most of us simply quit.

Mr. Tavenner. Were you of the opinion that it was under the control and domination of the Communist Party from its inception?

Mr. Hicks. Very much so. That does not mean, of course, that all of the members of the league were Communists. Far from it.

Mr. Tavenner. Certainly.

Mr. Hicks. But the Communists were controlling it from the very beginning.

Mr. Tavenner. How long did you remain a member of this first group in the city of New York, that is, the group of the Communist Party to which you were assigned?

Mr. Hicks. Only until the following summer—the summer of 1935—when I asked to be transferred to the Street branch in Troy, where I was then living. This was partly because I thought it was foolish to belong to a branch in whose activities I could not really take any effective part. It was also because having been fired from Rensselaer Polytechnic Institute I felt I could afford to be a public and

open member of the Communist Party, and I very much preferred to be in the open. So that I was transferred to the Troy branch, and from that time on went under my own name in the party and made no effort whatever to conceal my affiliation with the party, and spoke many times under direct party auspices.

Mr. Tavenner. When you first became a member in the city of New York in the group to which you were introduced by Professor Stern, your membership was kept secret?

Mr. Hicks. Yes.

Mr. Tavenner. Did you use your own name?

[fol. 341] Mr. Hicks. No. I certainly had a party name. I had no idea what it was, but I was given a party name, I am sure.

Mr. Tavenner. Did you pay dues?

Mr. Hicks. Yes.

Mr. Tavenner. What were the dues?

Mr. Hicks. I don't know. The dues system changed several times during the period that I was in the party, and sometimes it was on a sliding-scale basis, and sometimes it was on a direct percentage basis. I think that the dues ran somewhere around 5 percent and up. Perhaps higher than 5 percent of one's income.

Mr. Tavenner. Five percent of your income?

Mr. Hicks. Yes.

Mr. Tavenner. Now you stated that you were teaching at Rensselaer College at the time you were editor of the New Masses. How long were you or did you occupy that dual relationship?

Mr. Hicks. A year and a half.

Mr. Tavenner. How long was it after you became a member of the Communist Party that your services were dispensed with at Rensselaer College?

Mr. Hicks. Five or six months.

Mr. Tavenner. Had you become openly known as a member of the Communist Party at that time?

Mr. Hicks. No, I had not. I was certainly known as a very close sympathizer, as my being on the New Masses and presiding on the [American] Writers Congress, and so

on, would indicate; but I concealed the fact that I was actually a member of the Communist Party.

Mr. Tavenner. Was there any connection between your release as a teacher at Rensselaer College and your Communist Party affiliations?

Mr. Hicks. The administration refused to give that as the reason for dismissing me. Presumably I was officially dismissed for reasons of economy. However, in his commencement address the acting president said that he did not fire me because I was a Communist, but if he had fired me because I was a Communist it would have been all right. You may draw whatever inference from that you wish.

Mr. Tavenner. Did you at the time make any claim or assertion as to the cause of your release in a public way?

Mr. Hicks. Oh, I said as loudly as I could that I was being fired because I was a Communist sympathizer.

Mr. Tavenner. Did you at that time admit publicly that you were actually a member of the party?

Mr. Hicks. I did not.

Mr. Tavenner. Was it immediately after your release from Rensselaer College that you asked to be transferred to Troy?

Mr. Hicks. It was.

Mr. Tavenner. Do you mean in being transferred to Troy, being transferred to a Communist Party unit in Troy?

Mr. Hicks. That is what I mean. Yes.

Mr. Tavenner. Was that suggestion made to you by Communist sources, or was it a matter of your own decision?

Mr. Hicks. It was a matter of my own decision, which was to some extent resisted by the Communists in New York, but at the end they agreed, and that was what happened.

[fol. 342] Mr. Tavenner. At the time your connections were severed from Rensselaer College, did the Communists of your group take any position with regard to your making it known publicly that you were a member of the Communist Party?

Mr. Hicks. Bernhard Stern suggested that he thought it

was very unwise. I remember that. Whether any of the others made similar suggestions I don't know, but in any case, whatever was said, I did what I wanted to do and became a public member.

Mr. Tavenner. But you did not become a public member until you had left the group in New York?

Mr. Hicks. No.

Mr. Tavenner. Why was it you did not announce publicly that you were a member of the Communist Party while still a member of the group in New York, instead of waiting until you got to Troy and until you were assigned to the Troy group?

Mr. Hicks. Because that would have been—there would have been a danger then of exposing members of the unit in New York.

Mr. Tavenner. Wouldn't there have been an equivalent danger of exposing people in Troy?

Mr. Hicks. Not really an equivalent danger. And actually it wouldn't have been so serious if they had been exposed.

Mr. Tavenner. Why is that?

Mr. Hicks. Well, the Troy branch—it was known a Troy branch did exist. It carried on various regulations, political and public activities. It was taken for granted that it was there; that a public spokesman should appear for it really didn't change the actual situation at all. The group in New York, on the other hand, was a highly secret group, and nobody was supposed to know it. Nobody outside the party was supposed to know that there was even such a group in existence. Therefore, to have called attention to it might have been to point the finger at the particular individuals who made it up.

Mr. Tavenner. Was this group in New York a group of persons in sensitive positions in their particular fields?

Mr. Hicks. Not particularly.

Mr. Tavenner. Or prominent positions?

Mr. Hicks. Fairly prominent in some instances.

Mr. Tavenner. Was John Howard Lawson a member of that group?

Mr. Hicks. That question I could only answer in terms of hearsay.

Mr. Tavenner. Do you know?

Mr. Hicks. I do not ever remember seeing him at a meeting of that group.

Mr. Tavenner. Were any other members of the staff of New Masses members of that group?

Mr. Hicks. No.

Mr. Tavenner. Can you recall the name at this time of any other persons who were members of that particular group?

Mr. Hicks. I can. Do you think it is relevant to the interests of the committee at the present time?

Mr. Tavenner. It isn't relevant to the issue we are immediately concerned with.

Mr. Hicks. I have already given those names in private hearing and I would be glad to let that matter rest there for the time being.

Mr. Tavenner. Mr. Chairman, in the light of the fact it [fol. 343] is not a matter concerned with our present hearing I am not disposed to press the answer.

Mr. Kearney. All right.

Mr. Tavenner. When you were assigned to the unit in Troy did you immediately make known publicly your membership in the Communist Party?

Mr. Hicks. Not at any rate in the sense of sending a statement to the local papers saying I have joined the Communist Party, but almost immediately I began speaking at open party meetings and broadcasting for the party on the radio.

Mr. Tavenner. How long did you continue as an open party member?

Mr. Hicks. I was an open party member as long as I was in the party.

Mr. Tavenner. Can you give us the approximate date of your transfer to the Communist Party at Troy?

Mr. Hicks. Only that it was sometime in the summer of 1935.

Mr. Tavenner. Your next employment, I believe, was at Harvard University?

Mr. Hicks. Yes.

Mr. Tavenner. What was the position to which you were elected, or which you were given in Harvard?

Mr. Hicks. I think the title was counselor in American civilization.

Mr. Tavenner. Was that a new system or plan of study which had been inaugurated that year?

Mr. Hicks. It was a new plan. As I recall, someone had given Harvard a sum of money to undertake an experiment of this kind for a period—a limited period of years—to see if it would be successful for, say, 3 or 4 years. The plan was that a man should be appointed to each of the houses at Harvard, that is, these groups which had living quarters and eating places, and also integrated in the study program. A man should be assigned to each of these houses whose job it would be to try to interest the students in that particular house in studying American culture outside of actual classroom work.

Mr. Tavenner. What phase of American culture was it contemplated they should be taught?

Mr. Hicks. Well, most of the people who were appointed were either in American literature, or American history, or both. So that I take it the emphasis fell on American history and literature.

Mr. Tavenner. Which was your field?

Mr. Hicks. American literature.

Mr. Tavenner. How many counselors were appointed?

Mr. Hicks. Seven or eight, I think.

Mr. Tavenner. Were you employed by the faculty or by some other group or organization of the university?

Mr. Hicks. Well, I suppose I was employed by the corporation which is the governing body of Harvard University.

Mr. Tavenner. Will you tell the committee the circumstances under which you were employed? Who initiated the movement or the suggestion of your employment?

Mr. Hicks. Well, I was—as I recall it, the first suggestion came from a friend of mine at Harvard—F. O. Matthiessen, the literary critic, who wrote to ask whether I would be interested in such an appointment if it were offered me. He had reason to ask that since it was only a part-time job [fol. 344] with part-time pay, and I would in any case have to go on with free-lance writing, and so on, in order to support my family.

He therefore approached the subject rather tentatively, telling what the plan involved and asking me if I would be interested, and saying, of course, that he could promise nothing; this was simply a tentative inquiry.

After thinking it over I wrote back that I thought I would be very much interested, and in due season received an official appointment—from whom I don't know.

Mr. Tavenner. Do you have any records showing how the official appointment was made?

Mr. Hicks. I may have. I usually keep such things. But I think it would have come in the form of an impersonal letter from whatever official of the university handled that kind of thing.

(Representative Donald L. Jackson left the hearing room at this point.)

Mr. Tavenner. Do you know whether or not your activity in the Communist Party, or even the fact of the Communist Party membership at that time, was known to the appointive powers at Harvard?

Mr. Hicks. It seems as if it must have been, but I don't know absolutely that it was.

Mr. Tavenner. When did you first enter the school for the performance of your duties?

Mr. Hicks. In September 1938.

Mr. Tavenner. When did you receive your appointment?

Mr. Hicks. The preceding April or May.

Mr. Tavenner. I have seen an article in the New York Times date-lined April 12 stating that you were appointed that day and there was a considerable question raised at that time, was there not, about the appointment by Harvard of a person in your capacity who was a known member of the Communist Party, was there not?

Mr. Hicks. Particularly in the Boston newspapers.

Mr. Clardy. In the what?

Mr. Hicks. In the Boston newspapers.

Mr. Tavenner. Did your Communist Party membership have anything to do with your not being retained for an additional year, to your knowledge?

Mr. Hicks. That is a matter that was very much under dispute. I maintained at the time that it did. The adminis-

tration said that it never intended to appoint counselors for more than a year at a time. Whether what they said was true, none of the counselors had been aware of it. We thought there was a possibility of renewal, but I am not questioning what they said at that time at this time. At the time I thought that it was because of the embarrassment that had been caused them that they let me go.

Mr. Walter. Who passed on the question? The president of the university?

Mr. Hicks. I beg your pardon, sir?

Mr. Walter. Who passed on that question? The president of the university?

Mr. Hicks. On the question of appointing me in the first place, or letting me go? I suppose that I could have been [fol. 345] appointed without the president's having any immediate knowledge of it. That is, this was a very unimportant position and it is the kind of thing that could quite conceivably have slipped by without his investigating the subject very carefully. I have never known whether that was true or not. I think he was very well aware of what went on when I left.

Mr. Tavenner. Well, during the period of your work at Harvard for the year that you were there, did you continue in your Communist Party associations?

Mr. Hicks. Oh, yes.

Mr. Tavenner. And membership?

Mr. Hicks. Yes, indeed.

Mr. Tavenner. Were you very serious at that time about the subject of communism?

Mr. Hicks. I should say so, yes, very serious, indeed.

Mr. Tavenner. Did you have your membership transferred from Troy to Harvard University?

Mr. Hicks. I suppose I must have. I don't remember the circumstances, but I—I was associated with the Harvard branch as soon as I got there.

Mr. Tavenner. Did you find that branch in existence when you came?

Mr. Hicks. I did.

Mr. Tavenner. Was it there when you left?

Mr. Hicks. It was.

Mr. Tavenner. Was that known as the Harvard branch?

Mr. Hicks. I don't know whether it was. I don't suppose it could have been. Ever—we always spoke of it as such, but I imagine that officially it had some other name.

Mr. Tavenner. Were you aware that the existence of a cell of the Communist Party at Harvard among the professors was known generally in the community?

Mr. Hicks. I think it was known generally, yes.

Mr. Tavenner. Was the membership of the group known?

Mr. Hicks. Not known certainly, no.

In some cases I think there were strong suspicions; in others probably not.

Mr. Tavenner. Was your own position in the membership of the Communist Party known to the students generally?

Mr. Hicks. Yes, indeed.

Mr. Tavenner. You had not endeavored to conceal your Communist Party membership after having once become an open member?

Mr. Hicks. No.

Mr. Tavenner. While a member of the Troy branch of the Communist Party?

Mr. Hicks. That is true.

Mr. Tavenner. We just had on the witness stand a professor from Harvard University, Dr. Wendell Furry. Did you become acquainted with him while at Harvard?

Mr. Hicks. Yes, I did.

Mr. Tavenner. Was he a member of the Communist Party cell or group of which you were a member?

Mr. Hicks. Yes, he was.

Mr. Tavenner. Was he a member when you came there?

Mr. Hicks. Yes.

[fol. 346] Mr. Tavenner. Was he a member when you left?

Mr. Hicks. Yes.

Mr. Tavenner. Do you know anything about his continued membership in the Communist Party after you left?

Mr. Hicks. No, I have no knowledge of that kind.

Mr. Tavenner. Have you any knowledge of the continuance of that Communist Party cell in later years?

Mr. Hicks. No, I have not.

Mr. Tavenner. Have you had any occasion to know one way or another about its existence or nonexistence?

Mr. Hicks. No, the only person who was in any position to tell me about that was Robert Davis, who testified yesterday. After he, too, had left the party, I had no contact with it whatever.

Mr. Tavenner. Did you become acquainted with a person by the name of Israel Halperin?

Mr. Hicks. I did.

Mr. Tavenner. Was he a member of that cell of the Communist Party?

Mr. Hicks. He was.

Mr. Tavenner. At Harvard: Do you recall what his connection with the institution was?

Mr. Hicks. No, I don't. I think he was probably a part-time teacher and part-time graduate student, but I'm not sure.

Mr. Tavenner. Do you recall Dr. Daniel J. Boorstin?

Mr. Hicks. Yes.

Mr. Tavenner. Was he a member of the group or cell of the party of which you were a member?

Mr. Hicks. He was.

Mr. Tavenner. Do you recall a person by the name of Richard Schlatter—S-c-h-l-a-t-t-e-r?

Mr. Hicks. Yes, I do.

Mr. Tavenner. Was he a member of your group?

Mr. Hicks. Yes.

Mr. Tavenner. Of the Communist Party?

Mr. Hicks. He was.

Mr. Tavenner. Do you have knowledge of his withdrawal from the Communist Party at a later date; that is, of your own personal knowledge?

Mr. Hicks. No, not of my own personal knowledge.

Mr. Tavenner. Mr. Chairman, this the same person mentioned previously as having withdrawn from the Communist Party in about 1939.

Mr. Walter. As I understand it, since that time, Doctor, you have been engaged quite actively in anti-Communist work, including the writing of anti-Communist books.

Mr. Hicks. Yes; yes, sir.

Mr. Tavenner. Were you acquainted with a person by the name of Jack Rackliffe—R-a-c-k-l-i-f-f-e?

Mr. Hicks. Yes.

Mr. Tavenner. What was his connection with Harvard University?

Mr. Hicks. I don't really know.

Mr. Tavenner. Was he a member of the teaching staff?

Mr. Hicks. I don't know. He—most of these people were very low in the academic ladder, and many of them were [fol. 347] doing graduate work at the same time they were teaching, and looking back now these 14 years, I just don't recall the details in most of the instances.

Mr. Tavenner. Was he a member of the party?

Mr. Hicks. Yes.

Mr. Tavenner. Of the Communist Party with you?

Mr. Hicks. Yes, he was.

Mr. Tavenner. Do you recall George Mayberry?

Mr. Hicks. Yes.

Mr. Tavenner. Was he a member of the Communist Party with you?

Mr. Hicks. Yes, he was.

Mr. Tavenner. Do you recall at this time any special activity of Dr. Wendell Furry in that Communist Party group while you were there?

Mr. Hicks. No, no; I just remember him as one of the members doing what other people were doing.

Mr. Tavenner. What was the chief concern and activity of that group of the Communist Party during the year you were there?

Mr. Hicks. Well, I think Mr. Davis stated it very well yesterday.

Mr. Tavenner. Well, rather than to repeat matters that he testified to in particular, do you have any facts to add in addition to what he said?

Mr. Hicks. No, I think not. I think his account was adequate and accurate.

Mr. Tavenner. Is there anything that he said about the activity of the Communist Party with which you disagreed?

Mr. Hicks. Not that I can recall.

Mr. Tavenner. Did you personally take part in caucuses of the Teachers' Union?

Mr. Hicks. In the sense that almost every meeting of the party unit was a caucus, as I think has already been pointed out. That is, we did not hold separate caucuses because there

was no need of it; we discussed Teachers' Union affairs at meeting of the party branch.

Mr. Tavenner. Do you recall an individual by name of Louis Harap—H-a-r-a-p?

Mr. Hicks. Yes.

Mr. Tavenner. What connection, if any, did he have with this Communist Party group?

Mr. Hicks. He was a member of the group.

Mr. Tavenner. Will you tell how the directives or instructions from the Communist Party were transmitted to your group?

Mr. Hicks. My recollection is that they came in various ways. As a matter fact, I have often carried them myself, since I had—I was carrying on a rather wide range of Communist propaganda activities, and therefore, was likely to go into Phil Frankfeld's office, and he would tell me things he wished our group would discuss or would do.

I think Harap also acted as a kind of go-between, and there may have been others. It was pretty informal in that particular year.

Mr. Tavenner. Were all the members of this group fairly active in the work of the party?

Mr. Hicks. I would say there was a good deal of variation. Some were much more active than others.

[fol. 348] Mr. Tavenner. You referred to the wide range of Communist Party activities that you were engaged in at that time. Will you explain that, please?

Mr. Hicks. Well, most of it was simply speaking at various meetings of many kinds. The fact that so much publicity had been given my appointment at Harvard led to many invitations from highly respectable organizations as well as party organizations, and during that entire year I think I spoke on an average of 2 or 3 times a week.

Mr. Tavenner. Were those speeches made with the purpose of advancing the cause of communism generally?

Mr. Hicks. Generally, yes.

These speeches, or especially those that were given to our large non-Communist groups, were devoted chiefly to expounding the anti-Fascist position which was at the time the official position of the party and was very much my own position.

Mr. Tavenner. Did you have occasion in carrying out that function to speak before groups of students of the college?

Mr. Hicks. Yes, at Harvard and other colleges as well.

Mr. Tavenner. What type of groups did you speak before at Harvard—or let me change the question: Was there a Young Communist League organization at Harvard at that time?

Mr. Hicks. I believe there was.

Mr. Tavenner. Did you appear as a speaker before it?

Mr. Hicks. Not that I can recall.

Mr. Tavenner. Did you attend one of their meetings at any time?

Mr. Hicks. Not that I can recall.

Mr. Tavenner. Do you know to what extent higher functionaries of the party visited that Young Communist League organization among the students at Harvard?

Mr. Hicks. Well, I have no idea.

Mr. Tavenner. Did you discuss that with Phil Frankfeld on any occasion?

Mr. Hicks. Not that I can recall. I think the feeling was, my being an open Communist, I had better not have much to do with the YCL, at least that's the way I can recall now. Certainly I didn't have much to do with it.

Mr. Tavenner. Now, what was the general purpose of the Communist Party in endeavoring to organize a cell or unit among the teaching profession at Harvard, or at any other university, as far as that is concerned?

Mr. Hicks. Well, I think that's a question that has to be answered on two levels, really: First, what I thought then, and second, what I think now.

May I answer it that way?

Mr. Tavenner. Yes, sir.

Mr. Hicks. What I thought then was that the Communist Party, having had a genuine change of heart in 1934 and 1935, when the new line was adopted, was interested in carrying on the fight against fascism and in protecting democracy against fascism and had postponed into some rather indefinite future the whole idea of world revolution.

I believe that in the light of that the Communist Party was interested in reaching all people who can mold public opinion, and among these, of course, would be the teachers.

[fol. 349] Mr. Tavenner. And, incidentally, at that point, wouldn't the teachers be in a better position to mold public opinion among people generally both within and without the schools than almost any other class of people?

Mr. Hicks. They certainly were a very influential group, and the party was well aware of that.

Mr. Tavenner. Pardon my interruption.

Mr. Hicks. Yes, certainly. Of course, I feel now that the party was—well, it is very obvious to me that the popular front was simply a dodge that happened in those particular years to serve the foreign policy of the Soviet Union; so it seems to me that the party, in organizing branches in the colleges, had two purposes. One was to carry out the existing line which they wanted to make a show of advancing, and then, of course, the other was to try to have a corps of disciplined revolutionaries whom they could use for other purposes when the time came.

Mr. Walter. Did you ever come in contact with the corps of trained revolutionaries?

Mr. Hicks. In the sense that the party organizers, like Phil Frankfeld, for example, are.

Mr. Walter. I think he would faint if anybody showed him a gun, and I am sure that is true of a great many of the revolutionaries that testified before this committee. I am just wondering, in view of these rather jacketed, hard-boiled revolutionaries, who they were.

Mr. Hicks. They were the party functionaries as a rule, the professional party members, the members who give the whole of their lives to it.

Mr. Kearney. In that category would you designate the group of Communists who were convicted in New York City?

Mr. Hicks. Certainly.

Mr. Tavenner. Now, will you elaborate further upon those two methods or purposes, rather, of the Communist Party, as you understand it now?

Mr. Hicks. Well, I think the only way I can elaborate is to say that most, and perhaps all, of the men who belonged to the unit at Harvard were people who felt as I did, who were thinking of party activity in terms of the situation that then existed in the late thirties, a situation in which, to many

people in this country, the great enemy was certainly Fascist Germany, and our potential ally was Soviet Russia.

I think that these people, almost without exception, felt that.

Mr. Tavenner. Now, that was the situation as you have described it prior to, I assume you mean, the pact between the Soviet Russia and Germany, which was August 23, 1939.

Mr. Hicks. Exactly.

Mr. Tavenner. What change occurred at that time?

Mr. Hicks. Well, after a very brief period of confusion, the party, of course, adopted its position. The fight against fascism was a secondary matter, a matter of taste, as Molotov said, and that the war as now going on was an imperialist war and that the chief aim of all Communists should be to prevent the United States from aiding England and France in their fight against Nazi Germany.

Mr. Tavenner. Did you have any difficulty in accepting that sudden change in Communist Party line?

[fol. 350] Mr. Hicks. I found it perfectly impossible to accept it and got out of the party within a very short time after the pact was signed.

Mr. Tavenner. Were you concerned about it to the extent that you sought further information or advice from functionaries on a higher level?

Mr. Hicks. Yes; I went to New York, had a talk with Earl Browder, to see if he had anything to say; I mean, I didn't want to break with the party. I had given 4 years of my life to it. I didn't want to break. It was a very hard step to take. I was convinced I had to take it, but I went to talk with Browder and to see if he had anything to say that I hadn't already read in the Daily Worker.

He simply paralleled the Daily Worker line, and I came home and wrote a public letter of resignation.

Mr. Tavenner. What he had said confirmed your opinions and judgment about the change in the party policy, in the party line?

Mr. Hicks. It made perfectly clear to me what should have been clear to me earlier, and that is that the Communist Party in the United States was wholly under the domination of the Soviet Union.

Mr. Doyle. What year was that?

Mr. Hicks. That was September 1939, or August and September.

Mr. Scherer. You believe that to be true today, too?

Mr. Hicks. I do.

Mr. Scherer. Do you know whether that's true or not today?

Mr. Hicks. How do you know? I think the evidence is overwhelming.

Mr. Scherer. I just want that as a part of the record.

Mr. Kearney. May I suggest that the gentlemen of the committee let counsel pursue the examination and then if the members have any questions to ask, they can ask them at the end of counsel's interrogation. It will expedite matters.

Mr. Tavenner. Well, now, at the time you left the party for the reasons that you mentioned, there were others who had entered it with the same beliefs you had, but continued to remain in the Communist Party; isn't that true?

Mr. Hicks. I think that is true.

Mr. Tavenner. It took some courage and determination to break bonds after once being entered into; did it not?

Mr. Hicks. I think so. It was a difficult thing to do, as I said a moment ago. There were people who were in positions which perhaps made it even more difficult; that is, where the party itself might be able to exert pressure.

In my own case it was very fortunate that I had been an open member of the party, because I had to make my decision openly. I had been saying all this about fascism being the real enemy, and now I would have to turn right around and say the exact opposite, and of course I couldn't bring myself to do that, and there was nothing to do but break with the party. If I had been a secret member, I could have temporized for some months, worried and fretted, and then eventually come around and reconciled myself to the new party line.

Mr. Tavenner. Well, I would like for you to give the committee the benefit of such opinion as you have, based upon your knowledge of the Communist Party and its principles, and particularly its purposes, as you have described them at this time.

[fol. 351] Mr. Hicks. Well, I feel, as I said a moment ago, that the evidence is overwhelming; that the Communist Party in this country is and always has been dominated by the Soviet Union. I think that every member of the Communist Party is an actual or a potential agent of the Soviet Union.

I would like to stress that word "potential."

Any given individual at any given moment may not be an agent, even though he is a member of the Communist Party; that is, when a test comes, that would make him an agent, in effect, of the Soviet Union. He may break with the party, as I believe many people have done. That happens not only in moments when the party line changes. I think that has happened to individuals who were given assignments that they suddenly saw were in effect treasonous, and they would not carry such assignments out, and they quit then and there. So, as I say, you cannot at any moment, at any given moment, say a particular member of the Communist Party is an agent of the Soviet Union, but I think you can say he is potentially an agent, and that that is exactly how the Communist Party would like to use him if it could.

Mr. Tavenner. But do you not agree that these potential agents have nevertheless a very important part to play in the development of the whole Communist scheme of things in the promulgation of the Communist Party line, among people generally, and the influencing of the public and the public's views, upon contributions to Communist-front organizations, in which the Communist Party is interested and is using?

Mr. Hicks. Oh, I do agree, that's absolutely true. I just did not want my statement about a party member being a Soviet agent to stand unqualified. That would be unfair.

Mr. Tavenner. Yes, I agree.

Mr. Hicks. To certain individuals.

Mr. Tavenner. Now, knowing students at college, as you are bound to know them, and understanding the motives of the Communist Party, what is your judgment about the advisability of maintaining in a responsible position in a college a teacher who is under the directives and under the discipline of the Communist Party as you have described it?

Mr. Hicks. Well, I think there are—in most situations that is probably a very undesirable thing. I must say I would go along with Senator Taft in feeling that I would not want to make an absolute rule about that. I think there are situations in which it would be better to let a Communist keep his job than to disrupt the whole fabric of academic freedom; that is, I won't make an absolute statement to the effect that every Communist in an educational institution ought to be removed as quickly as possible.

I think each case ought to be looked into on its merits, and the question of the damage, the kind and amount of damage the particular individual is doing should be determined, and all that should be taken into account.

Mr. Walter. Don't you distinguish unorthodox teachings from teachings advocating the overthrow of the Government?

Mr. Hicks. Well, there is no—I'm assuming there is no evidence that this particular hypothetical Communist has [fol. 352] been teaching the overthrowing of the Government. If he has, then that's another matter.

Mr. Kearney. Counsel, proceed, and I am going to ask the members again to wait until he has finished, and then examine the witness.

Mr. Tavenner. Do you not agree that it is potentially dangerous to permit a member of the Communist Party, who is subject to its discipline to be in a situation in a college where both in matters relating to the curriculum and his duties as a teacher and also his extracurricular activities he is in a position to influence students or other faculty members, for that matter, and likewise to become potential agents of the Soviet Union by becoming Communist Party members?

Mr. Hicks. I think it's a danger, but I'm not sure it's a very serious or grave danger.

After all, in the thirties, when the whole intellectual atmosphere was favorable to communism, there were only perhaps 10 or 12 Communists out of the faculty of hundreds at Harvard University, and these men in almost every instance have the lowest academic rank.

Now, if that is the best that communism can do in our colleges, perhaps we've been a little too worried about

them. Perhaps it is not quite so serious a thing as we have been supposing.

Mr. Tavenner. Well, can you state that it is not a serious thing if even one student at college is induced to embark upon an enterprise which may later, in later life, bring him into a situation comparable to some of those who have been prosecuted for their Communist activities?

Mr. Hicks. Of course it's serious. I think it's terribly serious. The only question is, what are you going to do to prevent it?

Now, you cannot protect all college students 100 percent. Some of them take to drink, and some of them take to communism, and lots of other things happen to them, and there's nothing that anybody on God's earth can do that will look out for all college students. I think you have to just say that is a risk you run.

Mr. Tavenner. In other words, you are considering it, on a very small scale, as being a calculated risk?

Mr. Hicks. Yes.

Mr. Tavenner. But would you say it should be put in a category of a calculated risk where the Communist Party teacher is a member of an organized group of the Communist Party and is functioning with others as a group?

Mr. Hicks. I think that—well, let me start over again. There again it is certainly a danger, and if there is a functioning group, a large functioning group, it can be a very serious danger against which rather drastic action may have to be taken.

On the other hand, I think we should be rather careful not to exaggerate that danger, especially in a period such as this, when most people are overwhelmingly aware of the evils of communism.

In this situation, it seems to me, it would be very hard for the most devoted Communist teacher to make very many converts.

Can I say one thing more about that? I think another thing we tend to do in our discussion of this problem is to exaggerate the persuasiveness of the Communist teacher, forgetting that for one Communist on the faculty there are a hundred to a thousand other teachers, who, if they are

[fol. 353] as dispersuasive as he is persuasive, certainly ought to be, since they have so much better a case.

Mr. Tavenner. But it has been demonstrated time and time again in evidence before this committee that just a small handful of Communist Party infiltration cell got control of that entire group, and would take multitudes to accomplish, and I have in mind particularly the testimony of [Matt] Cvetic, when he related what hapened in a labor union of 2,800 persons who were loyal Americans, and how this Communist Party infiltration cell got control of that entire group, and there were never more than 20 people in that group.

Mr. Hicks. Well, I have seen that sort of thing happen, and I don't want to discount it. On the other hand, it is easier to take over a trade union than it is to take over a university, a good deal easier.

Mr. Tavenner. Were there any efforts of reprisal made against you for breaking from the party?

Mr. Hicks. Not that I know of, not that I was conscious of.

Mr. Tavenner. During the period of your membership were any efforts made to direct you in the character of writing you performed, that you did?

Mr. Hicks. There were efforts made, but when I resisted them, I had no trouble.

Mr. Tavenner. What was the nature of the effort that was made?

Mr. Hicks. To make them conform more closely to what was then the party line. I mean, I was following the party line, you understand, and I though I had as much right to my interpretation of it as the other people did, and—but they, in a few instances, I can recall, suggested that I should change this, or do that, but when I said "No," that was the end of it. I was in a rather fortunate position.

Mr. Tavenner. Can you give us an illustration of instances, specific instances, where an effort was made to direct your writing?

Mr. Hicks. The one that comes to mind because I have often quoted it as a joke came when I did a review of the Book of Selections on Marxism for the Communist, the official theoretical magazine of the party. In the course

of the review I remarked on the fact that Marx and Lenin were very vivid writers as well as being great theoreticians, and so on.

I received a telegram from V. J. Jerome asking what about Uncle Joe, meaning I had left out Stalin, and praise of Stalin was becoming obligatory in the Communist, as well as the papers in Russia. Since I happened to think one of the greatest—one of the real evils that Stalin has brought is the corruption of the style of the Communist word, I wrote back, wired back, "nothing doing," and the review went as I had written it.

That is a very trivial incident.

Mr. Tavenner. What has been the general nature of your opposition to the Communist Party since severing your connection with it——

Mr. Hicks. Well, I——

Mr. Tavenner. In 1939?

Mr. Hicks. I have written very extensively in magazines, from the very beginning. I have written in the Nation, in the New Republic, Harpers, Commentary, and Partisan Review. I am on the editorial board of the New Leader, which is a leading anti-Communist paper.

I have also done a good deal of lecturing on the subject [fol. 354] here and there. I've introduced the theme of anticommunism in several of the books I have written in this period. I've been active—not very active because of my remoteness from New York, but I have taken part in the work of the Americans for Democratic Action and the American Committee for Intellectual Freedom.

I think that is a rough summary.

Mr. Tavenner. I believe that is all, Mr. Chairman.

Mr. Kearney. Any questions?

Mr. Clardy. Just one: He mentioned the Americans for Democratic Action, which arouses my interest.

Where did you slash that from the line of fronts?

Mr. Hicks. Well, I think that is and always has been a leading anti-Communist group of left, liberal intellectuals. It was formed, after all, in the very beginning as an organization in which people of liberal and progressive ideas—to which they could belong and fight communism at the same time they were fighting for the particular causes that

they had in mind. It was—it was very scrupulous from the very beginning to keep all Communists out of it.

Mr. Clardy. But it followed a party line, almost identical in many particulars with the Communist Party line, was it not?

Mr. Hicks. That I think is mistaken—I think you will find ADA had disagreed with the Communist Party line again and again and again.

Mr. Clardy. I would offer to show you my diagram.

Mr. Kearney. Mr. Walter.

Mr. Walter. Well, as a matter of fact, the Communist is not eligible for membership in the ADA?

Mr. Hicks. Exactly.

Mr. Walter. Now, you said a moment ago we perhaps were too worried about the menace—that is, the menace of communism—and exaggerated the situation. If that is true, don't you feel that an atmosphere of fear is created throughout the United States which is not healthy.

Mr. Hicks. I think that's absolutely true. The question is: How was it created?

Mr. Walter. How is it created?

Mr. Hicks. How was it created; yes.

Mr. Walter. Now, I don't think there is any question about how it was created, but how can we make the American people understand that the might and majesty of this great republic will not be abused so that innocent, frustrated idealists, if you please, are not destroyed at a time when congressional committees are conducting a legitimate duty?

Mr. Hicks. I'm afraid I don't understand where that question gets to. I—I think the fear in this country is in part a very real and understandable fear of the Soviet Union and its agents. It is a fear that we should all share. It is a perfectly real thing.

Over and above that, I think there is a mood of rather vague apprehension that is not rational and that is dangerous, and I do feel that that mood of irrational apprehension has been encouraged in part by congressional—I will say legislative investigating committees.

Mr. Walter. Well, what can be done to make the people realize that this committee, at least—I don't know about

the others, but I assume they have a similar desire—are in search of knowledge for perfectly legitimate reasons. [fol. 355] Now, I am inclined to agree with you that we are exaggerating the situation now, particularly in the light of recent events—Korea, and then the anti-Semitic movement, which is widespread in Russia. I am sure that the Communist Party membership has been reduced considerably—certainly the eggheads have all gotten out of it—and I just can't imagine intellectuals believing that in the Communist movement in the United States there is anything that even resembles the solution for our economic problems. I think that's true.

Mr. Hicks. Oh, I agree.

Mr. Walter. All right. Now, then, if that is the fact, what can this committee do to make the American people believe, outside of the mistakes that are made, understand, that we are not determined to search into men's minds for ideas, but that we want to know what the extent of this menace is?

Now, you say it is exaggerated. You say we are too worried, and I think it is our job to find out if that is the fact.

Mr. Hicks. Well, for some reason, the emphasis in all these investigating committees always falls on the fact of how much communism there is and never on how little there is.

Mr. Walter. That's right.

Mr. Hicks. It seems to me I have been sitting around here for 2 days in which it has been demonstrated that there were 10 or 12 Communists at Harvard 14 years ago and that perhaps there is one still there.

Now, I would honestly think if you could just say to the public, "Look, that's all," instead of saying, "Look how much that is; isn't that terrible?" you might do a good deal to allay the fear that is sweeping over this country.

Mr. Kearney. That statement I thoroughly agree with.

Mr. Clardy. Maybe we will on this before we get through. We have only started.

Mr. Kearney. Mr. Doyle.

Mr. Doyle. I made a note, as you testified, and you briefly said this: That you had concluded that they have postponed their idea of world revolution.

That is one point you made, and then another point: You said, "I feel now that front was merely a dodge, but they had determined to have a corps of trained revolutionaries."

Do you remember using substantially——

Mr. Hicks. Yes.

Mr. Doyle. Such language?

Mr. Hicks. Yes; I do.

Mr. Doyle. When you say "revolutionaries" in that connection, was it your experience, as an active member, public member, of the Communist Party that the Communist Party in America was advocating then the use of force and violence, even indefinitely, some time in the future, that that might be necessary?

Mr. Hicks. The Communist Party at that time certainly was not advocating the use of force and violence. I think that always in the background there was that possibility as part of the whole Marxist concept. It was being soft-pedaled, however, in the period 1935 to 1939. It was, I think, never mentioned in the general—in general publications of the Communist Party.

[fol. 356] I would like to say one more thing about that: That even speaking about trained revolutionaries does not go far enough today. When we speak of trained revolutionaries, we're thinking—at least I'm thinking—of the sort of thing that Lenin recommended when he was building up the Bolshevik Party in Russia. What we have today, what the party is looking for today, it seems to me, is simply not even trained revolutionaries, but dependable agents.

Mr. Clardy. The what?

Mr. Hicks. Dependable agents—agents of the Soviet Union.

Mr. Clardy. Agents of what?

Mr. Hicks. Agents. They are looking for dependable agents of the Soviet Union.

Mr. Doyle. Well, may I state this to you briefly—the ground work for my last question so you will understand the purport of the question more clearly: I was in Japan and Korea, Kwangtung, Formosa, Okinawa, Hong Kong, a couple months ago for Congress and while I was in Korea those few days, and in Japan, and elsewhere, I asked our

American Intelligence, also some other intelligence, whether or not, in their judgment, the military aggression in Korea, in Indochina, Indonesia, was part or had any definite relationship to the subversive Communist Party program in the United States of America. And a hundred percent of those men all said, "Yes. It's part and parcel of the same international conspiracy."

Now, having made that report to you, I want to ask you whether or not you have any opinion, based upon your knowledge, whether or not trying to get these Communists who, as you say, would be Soviet agents rather than Soviet revolutionaries, whether or not in your judgment the Communist Party program in the United States of America today is the agent of Soviet Russia.

Mr. Hicks. I believe that it is, and there's no question in my mind that it is to be combated. The only question is how do you combat it most effectively and, in the course of doing so, do a minimum of damage to our American institutions.

Mr. Doyle. Well, now, Mr. Chairman, may I ask this final question then: Have you any suggestion or recommendation to make to this committee on the question of legislation?

Mr. Hicks. No; I have not on legislation. The only suggestion I have to make is the one I already made.

Mr. Doyle. Thank you.

Mr. Kearney. Mr. Frazier.

Mr. Frazier. No questions.

Mr. Kearney. Mr. Walter, I interrupted you on a question.

Mr. Walter. Well, I was just leading up to my last question.

At any rate, of those who now remain in the Communist Party, they are, in fact, representatives of the Soviet and agents of the Soviet with their allegiance there first?

Mr. Hicks. I made the distinction earlier——

Mr. Walter. Yes.

Mr. Hicks. That they are either actual or potential agents. I think that now, after all that has happened, the chances are that most of them are actual, not potential, but I still think that you have to allow that much margin of doubt.

Mr. Walter. Well, then, can't this whole thing be dealt with adequately by making it a crime to be a Communist [fol. 357] Party member and just arrest people, prosecute them for membership in the Communist Party, instead of searching all over the lot?

Mr. Hicks. I have sometimes felt that that was certainly the answer and would be much simpler. How much damage that would do, I don't know. I mean, whether that would again give the impression that this big country is too much worried over a little party—it would be a simpler and, in many ways, I think, a more satisfactory way of handling the problem than what we've had in the last 2 or 3 years.

Mr. Kearney. No matter which way it was done, somebody would be bound to be hurt?

Mr. Hicks. Somebody will be hurt. There's no getting around it. I mean, innocent people will be hurt.

Mr. Doyle. May I ask this: Do you say that you are suggesting possibly outlawing the Communist Party?

Mr. Hicks. I am saying I have had times when I felt that was the only possible solution.

Mr. Kearney. That's all Doctor; and, on behalf of the committee, I want to thank you for your contribution you have made here before us today. If counsel has no further questions, you are excused.

Mr. Hicks. Thank you very much.

Mr. Kearney. The committee will take a recess until 10 o'clock tomorrow morning.

The witnesses who have been subpenaed will report in room 226.

(Whereupon, at 4:29 p. m. the hearing was recessed until 10 a. m., Friday, February 27, 1953.)

[fol. 358] GOVERNMENT'S EXHIBIT No. 8

HEARINGS

BEFORE THE

COMMITTEE ON UN-AMERICAN ACTIVITIES
HOUSE OF REPRESENTATIVES

EIGHTY-THIRD CONGRESS
SECOND SESSION

JUNE 28 AND 29, 1954

Printed for the use of the Committee
on Un-American Activities

[fol. 359] COMMUNIST METHODS OF INFILTRATION
(Education—Part 9)

Monday, June 28, 1954

UNITED STATES HOUSE OF REPRESENTATIVES,
COMMITTEE ON UN-AMERICAN ACTIVITIES,
Washington, D. C.

The Committee on Un-American Activities met, pursuant to call, at 10:37 a. m., in the caucus room of the Old House Office Building, Hon. Harold H. Velde (chairman) presiding.

Committee members present: Representatives Harold H. Velde (chairman), Donald L. Jackson, Kit Clardy, Gordon H. Scherer, Francis E. Walter, and James B. Frazier, Jr. (appearance shown in transcript).

Staff members present: Robert L. Kunzig, counsel; Donald T. Appell, investigator; and Riley Smith, acting for the clerk.

Mr. Velde. The committee will be in order.

Let the record show that present are Mr. Jackson of California, Mr. Clardy of Michigan, Mr. Scherer of Ohio, Mr. Walter of Pennsylvania, and myself of Illinois, a quorum of the full committee.

Before commencing this hearing I would like for counsel to explain to the committee the purposes and reasons for this hearing this morning.

Mr. Kunzig. Mr. Chairman, on June 8, 1953, 1 year ago, there appeared before this committee in executive session one Francis Xavier Thomas Crowley, who had been subpenaed after he had been identified as having been a member of the Communist Party at hearings in Michigan.

Mr. Crowley came before the committee and refused to answer any questions concerning either his own participation in any Communist activities or anyone else's participation. He flatly refused to answer any questions. He did not take the fifth amendment or avail himself of that privilege. He just refused to answer.

Subsequent to that time, after a vote of the full committee, Mr. Chairman, the committee recommended to the House of Representatives that Francis X. T. Crowley be cited for contempt of Congress.

On May 11, 1954, House Resolution 541 was adopted and Report No. 1586 concerning Mr. Crowley was presented and printed and adopted.

Mr. Crowley, by vote of 346 to 0, was cited for contempt of Congress and his name was referred to the United States Attorney for the District of Columbia to the end that he may be proceeded against in the manner and form provided by Congress. The case is even now pending in the hands [fol. 360] of the United States District Attorney for the District of Columbia.

Mr. Chairman, Mr. Crowley communicated on his own behalf with the committee and asked leave to come before the committee and tell his entire story. He said that he felt that he had misunderstood, that he had been in error. He said also that he had discussed the matter in detail with his priest and had been advised to come and tell the full and true story.

The committee met and agreed to hear Mr. Crowley and he is here today, not under subpena, but voluntarily returning to the committee to answer the questions put to him by the members of the House Committee on Un-American Activities.

The field covered will be in the main communism in education and the experiences and background in the party by Francis X. T. Crowley.

It will deal with activities in Michigan, Boston, and in some small degree, New York.

Without further ado, Mr. Chairman, if I have your permission I will call the witness.

Mr. Velde. All right, proceed.

Mr. Kunzig. I call Francis X. T. Crowley.

Mr. Velde. In the testimony you are about to give before this committee, do you solemnly swear you will tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Crowley. I do.

Mr. Jackson. Mr. Chairman?

Mr. Velde. Mr. Jackson.

Mr. Jackson. While the witness is taking the chair, I have a preliminary matter I would like to go into. This is a parliamentary inquiry as to whether or not in recommending to the full House a citation for contempt, whether or not that might be perhaps out of our jurisdiction, the House having acted upon it.

I don't know. I am simply putting that question as to whether the House exercises jurisdiction now in the matter of whether the committee is enabled to proceed on its own accord in the light of the House action.

Mr. Velde. It is my understanding, of course, that when we have a witness who asks to testify before our committee that we do everything possible to grant that request and the privilege of being given a hearing. So the witness is appearing, as I understand, at his own request to clear matters up that he failed to clear up before this committee in executive session.

I do not think that the fact that the Attorney General or the Justice Department or the full House of Representatives has jurisdiction over him has anything to do with this particular hearing, as I understand it.

Mr. Jackson. I ask this question not in a contentious spirit but simply that I may know that we have the jurisdiction.

Mr. Velde. I believe we do under the rules.

Mr. Clardy. Mr. Chairman, may I suggest that Mr. Jackson was necessarily absent at the time we took this up and as I recall the case we canvassed this pretty thoroughly and I think it was unanimously agreed upon that we should go forward.

[fol. 361] (Representative James B. Frazier, Jr., entered the hearing room at this point.)

Mr. Velde. You are referring to the meetings we held in executive session?

Mr. Clardy. Yes, Mr. Chairman.

Mr. Velde. Yes, and we had a quorum present.

Mr. Scherer. In view of the statement by the gentleman from Michigan, I wish to say that the action of the committee was not unanimous. I voted against the motion for a number of reasons, but it was not because of a lack of desire to hear the testimony.

Mr. Clardy. It was not because you did not want to hear him, that is right.

Mr. Kunzig. The question as to whether the matter can be heard by this committee has been taken up with the Parliamentarian and they are in full accord that the witness can be heard.

Of course, what is done by the district court is completely up to the Attorney General.

Mr. Walter. It may be for them to decide, but I think we should express our views as to what decisions we will take on this matter.

Mr. Clardy. If the witness fully cooperates with the committee, I think we should take that into account and make an appropriate recommendation.

Mr. Velde. Certainly. Any Member of Congress or this committee has a right to express his own personal views regarding the witness to the Attorney General or to anyone else who wants to.

Mr. Velde. The witness may be seated.

Mr. Kunzig. Thank you, Mr. Chairman.

Mr. Kunzig. Would you give your full name, please, sir?

TESTIMONY OF FRANCIS XAVIER THOMAS CROWLEY

Mr. Crowley. Francis Xavier Thomas Crowley.

Mr. Kunzig. What is your present address?

Mr. Crowley. 226 Second Avenue, New York City.

Mr. Kunzig. Mr. Crowley, I see that you are not accompanied by counsel. You know that, of course, under the rules of this committee, you have the right to be so accompanied?

Mr. Crowley. Yes; I know that.

Mr. Kunzig. You were present in the room previously when I made a brief opening statement. Is it correct that you are testifying here voluntarily, today, at your own request?

Mr. Crowley. Yes.

Mr. Kunzig. Would you give us a brief résumé of your educational background?

Mr. Crowley. Well, I graduated from St. Thomas the Apostle Parochial School in about 1940 and from Brooklyn Technical High School in 1943, and from the University of Michigan in August 1950.

I did some graduate work at night at Columbia and I attended a drafting course at Mechanics Institute.

That about covers it.

Mr. Kunzig. Would you give the committee a brief résumé of your employment background, the major points, not just a few weeks employment, so to speak?

[fol. 362] Mr. Crowley. For the past roughly 3 years, I have been working in New York, and now I am working as a draftsman for an architectural firm in New York.

Before that I held various short-length jobs. I was a salesman. I worked in summer camps. I had my own landscaping business when I was in high school, things like that.

Mr. Kunzig. What is your present employment?

Mr. Crowley. As a draftsman for an architectural firm.

Mr. Kunzig. In New York City?

Mr. Crowley. Yes.

Mr. Kunzig. Mr. Crowley, where were you born and when?

Mr. Crowley. Woodhaven, Long Island, October 29, 1925.

Mr. Kunzig. Would you spell the name of the town, please?

Mr. Crowley. W-o-o-d-h-a-v-e-n.

Mr. Kunzig. When were you in attendance at Columbia University?

Mr. Crowley. From January 1946 until about April 1947. That was my freshman year.

Mr. Kunzig. While you were a student, did you join the Communist Party?

Mr. Crowley. Yes, not at Columbia.

Mr. Kunzig. You mean off campus?

Mr. Crowley. Yes.

Mr. Kunzig. Would you describe how you became a member of the Communist Party and what led you to become a member?

Mr. Crowley. Through some social acquaintances that I made after I got out of the Army, and one of those persons brought me into the party.

The reason I joined, I cannot think too clearly about that, but I know that it was because I was looking for some kind of a faith or an ideology. I lost my own and I was sort of floundering around and I hooked onto that and it buoyed me up.

Mr. Kunzig. Who got you to join?

Mr. Crowley. A woman named Ann Saymour.

Mr. Kunzig. Was she a resident of New York?

Mr. Crowley. Yes.

Mr. Kunzig. Can you give any further identification of Ann Saymour?

Mr. Crowley. No, I haven't seen her since 1946.

Mr. Clardy. Was she about your own age?

Mr. Crowley. Yes, a few years older.

Mr. Kunzig. You knew her to be a member of the Communist Party?

Mr. Crowley. Yes.

Mr. Kunzig. What group were you brought into in the party, what cell?

Mr. Crowley. A group on the upper west side in Manhattan, about 99th or 100th Street.

Mrc. Kunzig. Ninety-ninth and what?

Mr. Crowley. And 100th Street, between Amsterdam or Columbus Avenue.

Mr. Kunzig. Did this group have a name?

Mr. Crowley. Yes, the Connolly Club.

Mr. Kunzig. What sort of things took place at this Connolly Club?

[fol. 363] Mr. Crowley. Well, my activities were sort of Johnny Higgins work, selling the Daily Worker or circulat-

ing election petitions, and distributing circulars. That about covers it.

Mr. Jackson. Communist Party election petitions?

Mr. Crowley. I do not recall whether they were all Communist Party election petitions or whether they were for other candidates, but they were circulated through the club.

Mr. Velde. What year was this again, Mr. Crowley?

Mr. Crowley. 1946 to the early part of 1947.

Mr. Clardy. Were you of voting age at that time?

Mr. Crowley. No, I know I did not vote. I am 28 now. I was just about 21.

Mr. Scherer. If these were not Communist Party petitions, they were petitions for other parties whom the Communist Party had designated to be supported; is that right?

Mr. Crowley. Yes.

Mr. Clardy. May I inquire on that point, Mr. Chairman?

Mr. Velde. Mr. Clardy.

Mr. Clardy. Can you give us the name of the party?

Mr. Crowley. Well, I think it was the American Labor Party.

Mr. Clardy. That was the one I had in mind. Was there a Liberal Party?

Mr. Crowley. Yes, but we did circulate their petitions, to my knowledge.

Mr. Clardy. Primarily, the American Labor Party?

Mr. Crowley. Yes.

Mr. Clardy. Thank you, Mr. Chairman.

Mr. Kunzig. You circulated the petitions of the American Labor Party as a member of the Communist Party yourself?

Mr. Crowley. Yes.

Mr. Kunzig. That was, of course, as you have specified, under specific directions and instructions of the Communist Party so to do?

Mr. Crowley. Yes.

Mr. Kunzig. Is there anything else, any other activity that took place during the brief period of time that you were in New York as a member of the party?

Mr. Crowley. Well, there were rallies of various sorts, political rallies. I think there was one in Madison Square Garden for some purpose, but I cannot remember now what

the occasions were. They were political rallies that were sponsored either by the Communist Party or by other groups that I attended.

Mr. Kunzig. One of the questions on which you were cited for contempt was the question: "Have you ever at any time been a member of the Communist Party?"

That question, of course, you have now answer to me "Yes" and you started giving details about your membership.

Will you tell the committee—and I know you want an opportunity to tell the committee why you took the viewpoint that you took a year ago in 1953, or why you have supported that particular viewpoint and came back here today.

Mr. Crowley. Yes, I think I can do that pretty briefly.

I know that at that time I no longer believed in the entire movement and I had no sympathy with it, but my purpose [fol. 364] in not testifying was to protect other people who I thought might get in the same boat that I was in and might suffer a lot of damage, either socially or economically because of my testimony, and also I was a little bit footloose at the time.

Mr. Clardy. May I inquire, Mr. Chairman?

Mr. Velde. Yes, Mr. Clardy.

Mr. Clardy. By that, are you trying to tell us that there was not remaining any vestige of the ideological conviction that you had had?

Mr. Crowley. Yes, sir; none.

Mr. Clardy. You had abandoned those convictions, is that right?

Mr. Crowley. That is right.

Mr. Clardy. And at that time, you were motivated entirely by the things you just mentioned?

Mr. Crowley. Yes.

Mr. Clardy. You were no longer in sympathy with the objectives and the purposes of the Communist Party?

Mr. Crowley. Not at all.

Mr. Jackson. Mr. Chairman, may I ask a question?

Mr. Velde. Mr. Jackson.

Mr. Jackson. You say you were hesitant to give your testimony previously because of the fact that you might involve other persons?

Mr. Crowley. Yes.

Mr. Jackson. Do you know whether or not any of those other individuals have since left the Communist Party and are no longer a part of that organization?

Mr. Crowley. No, not that I know of. I took it upon myself.

Mr. Jackson. In spite of the fact that you did not know at that time whether or not these people were still a part of the Communist Party apparatus?

Mr. Crowley. No, I did not know that.

Mr. Jackson. One more question which I think should go into the record at this time: Have you ever been offered any immunity, any promise or reward by any member of the staff in connection with your appearance here today?

Mr. Crowley. No, none whatsoever. I am here on my own.

Mr. Velde. And you have not been offered any immunity from prosecution by any member of the committee itself, we sitting up here?

Mr. Crowley. No, sir.

Mr. Clardy. Is it fair to say that your own conscience and your own love for your country may have prompted you to come forward?

Mr. Crowley. Yes, that is the reason.

Mr. Scherer. It might have been a little fear of the results of the citation that prompted him, too.

Mr. Crowley. Well, I can answer that if I may.

Mr. Kunzig. Go right ahead.

Mr. Crowley. Because I see no reason for my suffering a penalty for something that I no longer believe in. I see no reason for suffering as a scapegoat for something I do not believe in.

Mr. Scherer. Would you have come back if this committee had not cited you for contempt?

Mr. Crowley. I believe I would.

Mr. Scherer. You are not sure of that?

[fol. 365] Mr. Crowley. I believe I would, sir.

Mr. Scherer. It was not until after you were cited for contempt and faced a penalty, however, that you made up your mind to come back.

Mr. Crowley. That is right.

Mr. Kunzig. In regard to the statement you made about not wishing to name others, I think the record should be

clear that you did not answer any questions, even about yourself, a year ago.

Mr. Crowley. That is right.

Mr. Kunzig. I believe you said, "It would be cowardice to answer any questions about my past life to anyone that I did not want to."

Mr. Crowley. Yes, sir.

Mr. Kunzig. And then you just said that you wouldn't answer.

Mr. Crowley. Yes.

Mr. Kunzig. But today you are here to give the full answers and I want to ask you whether your actions a year ago were based on your own convictions or whether you did not at that time talk to anyone?

Mr. Crowley. I had been going to a few people at that time. I spoke to a lawyer and he told me that I could cite the fifth amendment. That was the only legal way I could refuse to answer and I did not want to do that, and I did not take his advice and I did not retain him as counsel. That was the reason why I came down without a lawyer. I was working on a construction job renovating a church and I met the priest of the church and I talked with him and he told me the only thing to do would be to come down and testify.

Mr. Kunzig. That was a year ago?

Mr. Crowley. Yes; that was his advice and I did not follow that because I told him what I told you; I did not want to involve other people.

Mr. Kunzig. Where did you move to when you left New York City?

Mr. Crowley. To Boston.

Mr. Kunzig. When was that?

Mr. Crowley. In 1947, the spring of 1947.

Mr. Kunzig. Did your Communist Party activities move along with you?

Mr. Crowley. They did move with me, but almost by accident.

Mr. Kunzig. Explain that, will you?

Mr. Crowley. Yes; I moved to Boston. I quit school in the middle of the term and I was unable to do the work and I was looking for something else to do, somewhere to go,

and I moved to Boston because I knew someone there who had been in the Army with me and I thought I could, you know, get a better start on things and a transfer was given to me to Boston.

When I arrived in Boston, a Communist Party transfer—when I arrived in Boston I waited sometime before I had contact with the Communist Party.

Mr. Kunzig. Will you tell the committee just what you mean by Communist Party transfer? How does that work?

Mr. Crowley. At that time, as I recall, I received a letter or a card, I think it probably was a card, to present in Boston when I arrived and I do not remember exactly what it was, but it was something of that nature.

Mr. Kunzig. Did you present that card when you arrived in Boston?

Mr. Crowley. I did eventually.

[fol. 366] Mr. Kunzig. To what, the Communist Party up there?

Mr. Crowley. Yes. No, not to the Communist Party. To someone who told me that they would handle the tranfer for me and get me into the Communist Party in Boston.

Mr. Kunzig. Do you remember who that someone was?

Mr. Crowley. No, I cannot recall that name now, I am sorry.

Mr. Kunzig. What activities did you get into as a member of the Communist Party in Boston?

Mr. Crowley. They were almost the same as the activities I had in New York. There was electioneering. I think that was for the—there was the Wallace movement starting then and I did quite a bit of work on that, either collecting signatures to have the third party nominated, or passing out handbills, and I also worked as a clerk-typist for the National Council of American-Soviet Friendship.

Mr. Clardy. The what?

Mr. Crowley. The National Council of American-Soviet Friendship.

Mr. Clardy. All at the direction of the Communist Party leader governing your cell?

Mr. Crowley. Yes, this was controlled by them.

Mr. Kunzig. Any activities you had for the Wallace movement was done at the request of the Communist Party?

Mr. Crowley. Yes.

Mr. Kunzig. To the best of your recollection, Mr. Crowley, when did this Wallace movement begin in Boston?

Mr. Crowley. I do not recall. I think it might have been there when I arrived.

Mr. Kunzig. When was that?

Mr. Crowley. In 1947. When I joined it, it already was a going concern, so to speak.

Mr. Kunzig. Did you ever circulate Communist Party petitions in Springfield, Mass.?

Mr. Crowley. Yes; I did.

Mr. Kunzig. Would you tell the committee about that?

Mr. Crowley. That was for two or three days I circulated a petition for the election, for the nomination of Sidney Lippman or Lipsher,[1] who was running for an office in Springfield on the Communist Party ballot.

Mr. Kunzig. You do not remember the name more definitely than Lippman or Lipsher?

Mr. Crowley. No.

Mr. Clardy. Was he running for a municipal office?

Mr. Crowley. Yes, in the city of Springfield.

Mr. Kunzig. While in Boston, what Communist Party group were you assigned to, if any?

Mr. Crowley. I was in the West End group.

Mr. Kunzig. That I believe also, Mr. Crowley, was one of the questions for which you were cited:

> When you were in Boston, Mass., were you a member of the West End group of the Communist Party? Have you ever been associated with any members of the West End group of the Communist Party of Boston?

[fol. 367] That was one of the questions you refused to answer.

Mr. Crowley. Yes.

Mr. Kunzig. You say now you were a member of the West End group?

Mr. Crowley. Yes.

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[1] Information in the files of the committee indicates correct spelling of name to be Sidney Lipshires.

Mr. Kunzig. Tell us now how you got into the group and what you did in the group.

Mr. Crowley. I got in and the group took the transfer which I had from New York City. I eventually made contact with someone. I think it might have been someone working in one of the other organizations that were there, either the Wallace movement or the National Council of American-Soviet Friendship, and then I got into the group that way and began activities.

Mr. Kunzig. Can you recall any of the members of the Communist Party whom you knew to be members of the Communist Party during your time in Boston?

Mr. Crowley. Yes, I can recall a few. There was Otis Hood, I remember.

Mr. Kunzig. How do you spell that man's name?

Mr. Crowley. H-o-o-d. He ran for office in Boston for the school board or the school committee, and I campaigned for him in the city of Boston with election petitions.

Then there were leaders I knew. I just knew them as being leaders, Daniel Boone Schirmer.

Mr. Kunzig. What was his position in the West End group?

Mr. Crowley. He was not in the West End group. He attended a few meetings and conducted discussions on various themes, political topics. He was an officer of the party in Boston, Mass.

Mr. Kunzig. And you knew Otis Hood and Daniel Boone Schirmer to be members of the Communist Party?

Mr. Crowley. Yes.

Mr. Kunzig. Is there any way you can identify them more clearly than that, either by their ages or anything of that nature?

Mr. Crowley. Daniel Boone Schirmer I would say was about 30 years old at that time, and Otis Hood was an older man. He was in his forties or fifties; about 50, I would say.

Mr. Clardy. Were any of those candidates successful?

Mr. Crowley. No, I do not think so.

Mr. Clardy. They did not then acquire these official positions?

Mr. Crowley. No, they did not.

Mr. Kunzig. When did you leave Boston?

Mr. Crowley. Well, about August or September of 1947, that same summer, the same year.

Mr. Kunzig. Where did you move to?

Mr. Crowley. I went to Michigan.

Mr. Kunzig. What city?

Mr. Crowley. To Ann Arbor, Mich., with the intention of going back to school. I had not been going to school that year.

Mr. Clardy. The University of Michigan at Ann Arbor?

Mr. Crowley. The University of Michigan.

Mr. Clardy. Did you enroll as a student?

Mr. Crowley. Yes, I got a transfer from Columbia and was accepted.

Mr. Kunzig. In what college?

[fol. 368] Mr. Clardy. Arts, literature, and science?

Mr. Kunzig. Commonly called the lit school on the campus?

Mr. Crowley. Yes.

Mr. Clardy. That is my school, by the way.

Mr. Kunzig. When you went to Michigan, did you stay there until you graduated?

Mr. Crowley. Yes.

Mr. Kunzig. When did you graduate?

Mr. Crowley. In August 1950.

Mr. Kunzig. During that period of time did you live at Ann Arbor?

Mr. Crowley. Yes, all the time.

Mr. Kunzig. So the period of time that we are now talking about at Michigan was from the end of 1947 up until 1950?

Mr. Crowley. Yes.

Mr. Kunzig. Was your Communist Party membership transferred again, this time from Boston to Ann Arbor?

Mr. Crowley. Yes, it was.

Mr. Kunzig. Did you have to ask about that or did they transfer automatically?

Mr. Crowley. They transferred me automatically.

Mr. Clardy. Who do you mean by "they"?

M. Crowley. The Communist Party in Boston sent me a transfer out to Michigan, as I recall, and I do not remember now to whom they sent it, but I know I was contacted some time after I arrived there.

Mr. Kunzig. Which of the cells, the Ralph Neafus?

Mr. Crowley. Yes, the student group.

Mr. Scherer. You left Michigan when?

Mr. Crowley. August of 1950.

Mr. Kunzig. I think the record should show that Bereniece Baldwin, who testified before this committee and who kept the records at that time of the Communist Party, had the record, as testified to by this witness, of his transfer from Boston to Ann Arbor, Mich.

Mr. Crowley, as a matter of interest, how long did it take for the Communist Party to approach you when you got to Ann Arbor? Did they get to you pretty quickly, if you recall?

Mr. Crowley. It was some time before I started school in February 1948, January 1948. It was sometime during the fall of 1947, I cannot recall exactly when.

Mr. Kunzig. The transfer was dated October 1947.

Mr. Crowley. October? Well, then, it was given after I left Boston. It was sent out afterward.

Mr. Kunzig. What group did they put you in or did you get in out at Ann Arbor?

Mr. Crowley. The Ralph Neafus, spelled N-e-a-f-u-s or N-e-a-p-h-u-s, I do not recall.

Mr. Kunzig. The Ralph Neafus in Ann Arbor, Mich.

Mr. Crowley. Yes, that is right.

Mr. Kunzig. Was that comprised of students of the university?

Mr. Crowley. Students in the University of Michigan.

Mr. Kunzig. Undergraduates or graduates?

Mr. Crowley. Undergraduates.

Mr. Clardy. Where was its headquarters in Ann Arbor?

[fol. 369] Mr. Crowley. The headquarters—it had no central headquarters. The meetings were held at various places, various residences of different students. Some were married and they had apartments.

Mr. Clardy. Didn't they have some place for a regular meeting place?

Mr. Crowley. There was a chairman of the group, Ernest Ellis. His house was more or less the central focal point of the group there.

Mr. Clardy. Where was that located, what street?

Mr. Crowley. I do not remember that. It was a good walk from the campus, I think.

Mr. Clardy. Which direction, toward Ferry Field?

Mr. Crowley. I think going toward the arboretum, on that side of the campus, but I don't know whether it was north or south of the campus.

Mr. Velde. Can you tell the committee how it happened to be named the Ralph Neafus group?

Mr. Crowley. Let me see, yes, I think Ralph Neafus was a young man from some time back or a socialist who had done something to gain himself recognition or fame.

Mr. Velde. I am informed by our investigator that he was a member of the Abraham Lincoln Brigade during the Spanish Civil War.

Mr. Crowley. I forgot that.

Mr. Velde. You recall there were a number of so-called heroes of that war, and I understand that Ralph Neafus was killed in that action.

Mr. Kunzig. You mentioned Ernest Ellis. Who was he?

Mr. Crowley. He was the chairman of the group.

Mr. Kunzig. Of the Ralph Neafus group?

Mr. Crowley. Yes.

Mr. Kunzig. And you knew him as a member of the Communist Party?

Mr. Crowley. Yes, he was an open Communist on the campus there. He was known to be a Communist.

Mr. Kunzig. In these various names that you are going to tell the committee about, I want to be sure that you understand that we are interested in only those people whom you knew to be members of the Communist Party, not those whom you suspected or thought, but those whom you knew to be members of the Communist Party.

Mr. Crowley. Yes.

Mr. Kunzig. Can you tell us any of the other members of the Ralph Neafus group?

Mr. Crowley. There was a Bill Carter who was also an open Communist on the campus.

Mr. Kunzig. Was he also at one time chairman of the Ralph Neafus group?

Mr. Crowley. Yes, I think he was for a short time.

Mr. Clardy. May I inquire?

Mr. Velde. Mr. Clardy.

Mr. Clardy. This organization was a secret organization, was it not?

Mr. Crowley. Not completely, no.

Mr. Clardy. Was it registered in any way with the university authorities?

Mr. Crowley. Oh, no, it was not registered.

[fol. 370] Mr. Clardy. The reason I asked that was you mentioned two who were known openly as members of the party.

Mr. Crowley. Yes.

Mr. Clardy. All of the members of the Ralph Neafus group, including yourself, did not want that identification to become public?

Mr. Crowley. That is right.

Mr. Clardy. You kept it concealed?

Mr. Crowley. Yes, that is right.

Mr. Clardy. And your meetings were secret? You conducted them in a way that you did not attract attention?

Mr. Crowley. Yes, for the most part. If I could add something——

Mr. Clardy. Proceed.

Mr. Crowley. There were open meetings at which the Ralph Neafus group invited anyone who wanted to attend to, you know, attend the meeting and sort of talk on current events.

Mr. Clardy. But without identifying it as a Communist Party meeting, is that not true?

Mr. Crowley. No, at times it was known to be—no, not identifying it as a Communist Party meeting, that is right.

Mr. Clardy. They identified it more or less as a meeting of liberals and progressives and all the other words the Communists ordinarily use?

Mr. Crowley. Yes, study group.

Mr. Clardy. Trying to suck in as many as they could discover as to who would be vulnerable to further Communist Party indoctrination?

Mr. Crowley. Yes.

Mr. Kunzig. You mentioned Bill Carter. Can you give us Bill Carter's full name?

Mr. Crowley. Just Bill Carter. I guess William Carter. I don't know if he had any other initials.

Mr. Kunzig. Are there any other members of the Ralph Neafus group that you can recall?

Mr. Crowley. Yes, there was another person who served as a chairman at the meeting for a while. Now, what is his name? I'm trying to think of it. Marvin Gladstone.

Mr. Kunzig. Marvin Gladstone?

Mr. Clardy. Do you know whether or not he is now a member of it or, rather, do you know where he is now?

Mr. Crowley. No, I don't know.

Mr. Kunzig. I think the record should show, Mr. Chairman, that a Marvin Gladstone was also identified by Bereniece Baldwin as chairman of the Washtenaw section of the Communist Party. That identification by Bereniece Baldwin was in 1952. You knew him as the chairman of the Ralph Neafus group?

Mr. Crowley. That is right.

Mr. Kunzig. Is there any other information you can give us about him?

Mr. Crowley. No. He was married and was a student there. There is not much else I can say.

Mr. Clardy. Was he married at that time?

Mr. Crowley. Yes, I knew him.

[fol. 371]. Mr. Clardy. Was his wife's name, first name Evelyn?

Mr. Crowley. I believe it was; I cannot swear to that.

Mr. Clardy. We had such a person under subpena out in Michigan. Was she a member of that same group?

Mr. Crowley. Yes.

Mr. Kunzig. And you knew her to be a member of the Communist Party?

Mr. Crowley. The Neafus group.

Mr. Kunzig. Of the Communist Party?

Mr. Crowley. Yes.

Mr. Kunzig. If you will search your memory, will you please give us any other names of people whom you can recall who were members of the Ralph Neafus group with you?

Mr. Crowley. There was a Roosevelt Ward.

Mr. Kunzig. Roosevelt Ward. You knew him to be a member of the Ralph Neafus group?

Mr. Crowley. Yes.

Mr. Kunzig. Was he a student, as you were?

Mr. Crowley. Yes.

Mr. Kunzig. All these were students; is that right?

Mr. Crowley. I think Ward was a part-time student. I do not recall if he was a full-time student.

Mr. Kunzig. I think the record should show that Roosevelt Ward was cited as a leader of the Labor Youth League and was indicted under the national draft law but was not convicted.

You knew him to be a member of the Communist Party?

Mr. Crowley. Yes.

Mr. Kunzig. Of your own personal knowledge?

Mr. Crowley. Yes, I attended meetings with him.

Mr. Kunzig. Any other members of the Ralph Neafus group?

Mr. Crowley. Yes, there was a Millicent or a Mildred Federbush.

Mr. Kunzig. Mildred Federbush?

Mr. Crowley. Or Millicent.

Mr. Kunzig. I believe the correct name is Mildred Federbush. And you knew Mildred Federbush to be a member of the Ralph Neafus group?

Mr. Crowley. Yes, she attended meetings there.

Mr. Kunzig. Did you know Edward Yellin?

Mr. Crowley. Yes, he was also a member of the Ralph Neafus group.

Mr. Kunzig. Of the Communist Party?

Mr. Crowley. Yes; and Edward Shaffer. He was also a Communist on the campus, an open Communist, I think he was at that time.

Mr. Clardy. There is no doubt about Mr. Shaffer being a member of the Communist Party?

Mr. Crowley. No, he was there. That is the only basis of evidence for saying that. In fact, we can have any person attending the meeting.

Mr. Clardy. He was one of the fifth amendment witnesses we had in Michigan recently.

Mr. Jackson. Mr. Chairman.

Mr. Velde. Mr. Jackson.

Mr. Jackson. May I make the point that we do not need to unduly labor the point as to whether the witness knows [fol. 372] these to be members of the Communist Party. One criteria for attendance at a closed meeting with other members—you understand that is one of the criteria.

Mr. Crowley. Yes.

Mr. Velde. I am glad that the gentleman made that statement with respect to the criteria for determining whether a person is a member of the Communist Party or was a member of the Communist Party, because we know that the Communists no longer identify each other by cards, and no longer carry identification cards. We can be fairly certain, however, that if they attend closed meetings, they certainly must have been members of the Communist Party.

If I understood you, you said that this man, this person you have last mentioned, was an open Communist. Can you explain that a little more fully, please?

Mr. Crowley. Yes. To my recollection he made it known publicly—or perhaps I am confusing him with the other open Communist I mentioned, William Carter, but Shaffer certainly was very active on the campus and openly so, and there was no doubt in anyone's mind that he was a Communist.

Mr. Jackson. Open or secret, you knew him to be a member of the Communist Party?

Mr. Crowley. Yes.

Mr. Velde. What period of time was this?

Mr. Crowley. The period I was there from 1947 and 1948 through 1950. I was actually enrolled as student from 1948 on.

Mr. Clardy. I think we had better spell his last name. It isn't the customary way it sounds.

Mr. Crowley. No.

Mr. Clardy. Was it S-h-a-f-f-e-r?

Mr. Crowley. It might have been.

Mr. Clardy. That is the way it appeared under his subpena. Where did he live?

Mr. Crowley. I don't know the name of the street. It was almost at an intersection of State Street and another street I cannot recall.

Mr. Clardy. South of State Street?

Mr. Crowley. Yes.

Mr. Clardy. Down Packard?

Mr. Crowley. Yes; down Packard, almost at State.

Mr. Kunzig. Mr. Crowley, are there any other members of the Ralph Neafus group whom you recall?

Mr. Crowley. Yes, I can recall them. My mind is a little confused right now. Let me think a moment.

There was a Jean Fagan.

Mr. Kunzig. J-e-a-n?

Mr. Crowley. That is right.

Mr. Clardy. Where did she come from?

Mr. Crowley. From Michigan; some town in Michigan.

Mr. Clardy. Was it East Lansing?

Mr. Crowley. Yes, I believe it was; Lansing or East Lansing.

Mr. Clardy. Do you recall the first name of either of her parents?

Mr. Crowley. No, I never met the family.

Mr. Clardy. You wouldn't recognize it if I mentioned it?

Mr. Crowley. No, not the parents. I knew she had 1 or 2 sisters, but I did not know them as persons.

[fol. 373] Mr. Clardy. Do you know where she may be now?

Mr. Crowley. No, I have no idea.

Mr. Kunzig. Do you know John and Betty Houston?

Mr. Crowley. Yes, I did know them.

Mr. Kunzig. Were they husband and wife?

Mr. Crowley. Yes.

Mr. Kunzig. Were John and Betty Houston members of the Ralph Neafus group?

Mr. Crowley. Yes.

Mr. Kunzig. How about Calvin and Alvin Lippett?

Mr. Crowley. Yes, I think. I cannot swear to both of them. I know one was and they looked alike.

Mr. Kunzig. And you never knew whether it was Cal or Al?

Mr. Crowley. I could not swear to that.

Mr. Kunzig. But at least one of them was a member?

Mr. Crowley. They both may have been.

Mr. Kunzig. Did you ever see the two of them at one time at a meeting?

Mr. Crowley. No, not at a meeting. I saw them together.

Mr. Clardy. Did you ever have conversation with either or both of them outside of these meetings?

Mr. Crowley. Yes, I think I did, just in the course of being on the campus with them.

Mr. Clardy. But you were not able to tell Al from Cal?

Mr. Crowley. It was hard, it was very hard.

Mr. Kunzig. How about George Sarver?

Mr. Crowley. Yes, for a time he was. I believe he dropped out. As I recall, he did.

Mr. Kunzig. During the time you were there you knew him to be a member of the Communist Party?

Mr. Crowley. Yes.

Mr. Kunzig. Can you give us any further identification of George Sarver; his age, address, or where he came from?

Mr. Crowley. He was in his early twenties. He came from maybe Detroit, and that is about all I can say. He was a student there.

Mr. Kunzig. Any other member of Ralph Neafus? Suppose I refresh your memory with some names.

How about Patricia Fiske Ellis?

Mr. Crowley. Yes, Ernie and Patricia. She was Ernie Ellis' wife.

Mr. Kunzig. And you knew her to be a member of the Ralph Neafus group?

Mr. Crowley. Yes.

Mr. Kunzig. I am just taking the Ralph Neafus people. How about Jeanne Tozer?

Mr. Crowley. Yes, I recall her. She was a member.

Mr. Kunzig. Do you know where she came from or any other identification?

Mr. Crowley. No.

Mr. Kunzig. Just that she was a student there also in Ralph Neafus.

Mr. Crowley. Yes.

Mr. Kunzig. How about Roselva Rushton Goodman?

Mr. Crowley. Yes, she was in the Neafus group, yes.

Mr. Kunzig. Was she married?

[fol. 374] Mr. Crowley. Yes, I forget her husband's name. I remember him. He was there also.

Mr. Kunzig. Would it have been Kenneth Goodman?

Mr. Crowley. Kenneth or Leonard. It was Lennie or Kenny.

Mr. Kunzig. Kenneth Goodman, and he was Roselya Rushton Goodman's husband, and you knew both of them as members of Ralph Neafus?

Mr. Crowley. Yes.

Mr. Kunzig. Can you identify them any further as to their address or ages?

Mr. Crowley. No. They were both students. I don't remember their address.

Mr. Kunzig. Jack Alexander Lucas?

Mr. Crowley. Yes, he was there at the time. I don't know if he was there all the time I was there.

Mr. Kunzig. But you knew Jack Alexander Lucas definitely to be a member of the Communist Party?

Mr. Crowley. Yes.

Mr. Kunzig. Jack Gore?

Mr. Crowley. I remember Jack but I do not recall if he was a member of Neafus. I had seen him. I saw him only a few times. I do not remember him attending a meeting as a member of Neafus.

Mr. Kunzig. Did you know him as a member of the Communist Party?

Mr. Crowley. No, not from being in a Communist Party meeting.

Mr. Kunzig. Was he a student in the University of Michigan?

Mr. Crowley. I do not think he was when I was there. I think he was living somewhere else, maybe in Detroit or Ypsilanti, or something like that.

Mr. Velde. The Ralph Neafus group was not composed entirely of students; is that right?

Mr. Crowley. I cannot remember anyone now who was not a student that I could swear to. I cannot remember.

Mr. Kunzig. I think the record should show, Mr. Chairman, that other testimony before this committee has identified Jack Gore as having been a member of the Communist Party as first chairman of the Labor Youth League of

Michigan and as a member of the Young Communists of Michigan.

Your testimony is that you knew Jack Gore but you do not recall his having attended meetings with you?

Mr. Crowley. Yes.

Mr. Velde. At that time there was a Labor Youth League organization on the campus of the University of Michigan?

Mr. Crowley. Yes, there was.

Mr. Velde. But that was separate and distinct from the Ralph Neafus group?

Mr. Crowley. Yes.

Mr. Velde. Mr. Clardy.

Mr. Clardy. Was there not some common membership, some people belonging to both?

Mr. Crowley. Yes; as a matter of fact, I think I belonged to the Labor Youth League, too.

Mr. Clardy. Who was the head of it at that time?

[fol. 375] Mr. Crowley. I think it was Eddie Shaffer.

Mr. Clardy. Do you know who succeeded him?

Mr. Crowley. No.

Mr. Clardy. Did you ever hear the name Baxter?

Mr. Crowley. No.

Mr. Jackson. May I inquire, Mr. Chairman?

Mr. Velde. Mr. Jackson.

Mr. Jackson. May I inquire as to whether or not there is still on the campus of the University of Michigan a labor youth group?

Mr. Clardy. The testimony that we took in Michigan indicates that it was not entirely dead and there's a man by the name of Sharpe who heads it up.

Had you ever heard about Mr. Sharpe?

Mr. Crowley. No, I do not remember that name.

Mr. Velde. Did you ever know anyone in the labor youth group who was not a member of the Communist Party?

Mr. Crowley. There were, I think there certainly were members of the Labor Youth League who were not members of the Communist Party who were in it for some other reason. There certainly were, because I am sure that the membership must have been bigger than that of the Ralph Neafus group.

Mr. Velde. How about the officers of the Labor Youth League?

Mr. Crowley. Well, Shaffer was an officer and I believe Eddie Yelin was. They were both Communists.

Mr. Velde. I think the record should show that the Labor Youth League has been cited as a Communist organization by the Attorney General of the United States and I think by this committee. It has been mentioned several times as a Communist organization.

Mr. Jackson. May the record show that the witness Barbara Hartle, during the Seattle, Wash., hearing, testified that out of her personal knowledge in Cain County and the Pacific Northwest generally that the Labor Youth League was controlled and dominated by the Communist Party in that area.

Mr. Velde. Yes, I think there is considerable other testimony to show that the Labor Youth League is a part and parcel of the Communist plan to take over the world.

Mr. Clardy. It originated with them.

Mr. Velde. And that the Labor Youth League is a successor to the Young Communist League and the American Youth for Democracy.

Mr. Kunzig. Did you ever know a Freda Perez?

Mr. Crowley. No, I do not recall her being in the Neafus group.

Mr. Kunzig. Did you know her in the Haldane group?

Mr. Crowley. Yes, I remember her but I cannot swear that she was a member of the Haldane group. I remember seeing her but I do not know whether she was or not.

Mr. Kunzig. Seeing her at meetings of what?

Mr. Crowley. Of the Haldane group.

Mr. Kunzig. You don't know whether she was at closed Communist Party meetings?

Mr. Crowley. No, I do not recall that.

Mr. Kunzig. Did she later become Mrs. Beberfall?

Mr. Crowley. Yes.

[fol. 376] Mr. Clardy. I want to ask one further question. You named a great many and you probably will think of some more. Wasn't the membership in the Ralph Neafus Club a changing one as students came into the institution

and went out so that the total was rather staggeringly large over a period of time?

Mr. Crowley. Yes, someone said it was like a revolving door.

Mr. Clardy. I have heard that phrase before. So, while you have named and are naming as many as you can recall, it evidently had a great many more students in it than those that you have or will name.

Mr. Crowley. Yes.

Mr. Clardy. It was interesting itself in pretty nearly every campus activity that went on in an effort to influence the resolutions and influence the actions of those other groups, was it not?

Mr. Crowley. Yes, it had a great deal of influence because a lot of the people went into other organizations.

Mr. Clardy. Didn't it also have an organized campaign of writing letters to the editor of the Michigan Daily on the hot issues before you?

Mr. Crowley. Yes, I wrote some myself.

Mr. Clardy. So that they were using every method that Communists could devise to influence the student body opinion in the direction of the Communist movement.

Mr. Crowley. Yes.

Mr. Walter. Where was the headquarters of the Labor Youth League?

Mr. Crowley. That I don't know. It is in New York City, I believe.

Mr. Walter. Do you know who the head of it is?

Mr. Crowley. No, I do not.

Mr. Walter. The principal officers?

Mr. Crowley. No.

Mr. Walter. Do you know any of the national officers?

Mr. Crowley. No, not to my knowledge.

Mr. Walter. Is this man Ward you mentioned a moment ago an officer in the national organization?

Mr. Crowley. He may be. He was in the Labor Youth League when I knew him.

Mr. Walter. But he was not located in Michigan. He came there to meetings.

Mr. Crowley. That is right.

Mr. Velde. At this point the committee will be in recess for 10 minutes.

(Whereupon, at 11:33 a. m., an 8-minute recess was taken.)

Mr. Velde. The committee will be in order.

Proceed, Mr. Counsel.

(Representative James B. Frazier, Jr., left the hearing room at this point.)

Mr. Kunzi. Mr. Crowley, we were talking about the Ralph Neafus Club when we took a short break. Can you give us the benefit of your knowledge of any other people in the Ralph Neafus Club of the Communist Party who met with you?

Mr. Crowley. Yes; I can recall one fellow named Leon Brown. The fellow I recall was tall and heavy set, and I do [fol. 377] not think it should be confused with anyone else because Brown is quite a common name. I think I knew quite a few students on the campus named Brown.

Mr. Clardy. Where did he hail from?

Mr. Crowley. From New York or Brooklyn, I believe.

Mr. Kunzig. According to the records of the university, Mr. Chairman, Leon Brown was born on September 25, 1927, in New York City.

Can you think of any other members of the Ralph Neafus Club?

Mr. Crowley. Yes; there was a member from Tennessee or somewhere in the south named Al Milstein.

Mr. Clardy. Born in Tennessee?

Mr. Crowley. I believe he was.

Mr. Kunzig. Did he hold any office in the Ralph Neafus Club?

Mr. Crowley. He held some kind of an office. I forget what it was; either keeping the attendance record or treasurer, I forget what it was; I believe treasurer.

Mr. Clardy. Do our files reflect a different birthplace for this Al Milstein? It runs in my mind that Tennessee is wrong.

Mr. Kunzig. He is under subpena and I believe he came

to Michigan from Mississippi. I believe his name is Alfred Milstein.

Mr. Crowley. Yes.

Mr. Kunzig. To continue the listing of these names of people from Ralph Neafus, would you give us any others you know?

Mr. Crowley. Well, for a time there was a member named Lee Salk. I believe he dropped out. He dropped out of Neafus, I think, while I was there.

Mr. Clardy. Where was he from?

Mr. Crowley. He was from New York.

Mr. Kunzig. Can you identify him in any further way?

Mr. Crowley. No, he was a psychology student there. I forget whether he had any job at the university.

Mr. Clardy. He was not on the quiet side of a personality, was he, or what is the fact?

Mr. Crowley. No, Salk was a kind of go-getter. He hustled around.

Mr. Clardy. An enthusiastic party member.

Mr. Crowley. Yes, he was enthusiastic in general. He was just that way.

Mr. Clardy. That is all I have on that point.

Mr. Kunzig. Do you know a Joan Studer?

Mr. Crowley. Yes, I remember her.

Mr. Kunzig. In Ralph Neafus?

Mr. Crowley. Yes.

Mr. Kunzig. Any further identification of Joan Studer?

Mr. Crowley. No, I cannot identify her further.

Mr. Kunzig. Do you know where she is today?

Mr. Crowley. No, I believe she came from the East, possibly New York.

Mr. Jackson. What was her major?

Mr. Crowley. I cannot recall what she studied.

Mr. Clardy. You knew her in the Lit College?

Mr. Crowley. Yes, in the Neafus Club.

Mr. Kunzig. Any other Neafus Club members?

[fol. 378] Mr. Crowley. There was a Bernard Poll, and I remember he told me he was a teaching fellow there. In fact, that is what he told everyone, a teaching fellow in the philosophy department.

Mr. Kunzig. You knew him to be a member of Neafus?

Mr. Crowley. Yes, he certainly was a member.

Mr. Kunzig. Any others, Mr. Crowley? We are still talking about Neafus.

Mr. Crowley. Yes; for a while there was a Bob Silk. I believe he dropped out. He left.

Mr. Kunzig. Do you know whether his full name was Robert H. Silk?

Mr. Crowley. Robert.

Mr. Kunzig. You don't know about the middle initial?

Mr. Crowley. No.

Mr. Kunzig. Can you give us any further identification about him?

Mr. Crowley. I believe he was a law student at the time and he was married. I think he dropped out while I was still in Neafus, or he moved over or something like that.

Mr. Kunzig. But you knew him definitely to be a member of the Communist Party at the time you were there at the University of Michigan?

Mr. Crowley. That is right.

Mr. Kunzig. How about Hy Bershad?

Mr. Crowley. Yes, he was a member of the Neafus Club.

Mr. Kunzig. Do you know his full name?

Mr. Crowley. No, Hy Bershad is as close as I can get to it.

Mr. Kunzig. Would it have been Hyman Abe Bershad, or does that ring a bell?

Mr. Crowley. No.

Mr. Kunzig. How about Ed Freeman?

Mr. Crowley. I remember the name but I cannot place the face, and so I cannot say definitely, but he was very active.

Mr. Kunzig. In what?

Mr. Crowley. On the campus. He was in, I believe, the [Labor] Youth League.

Mr. Kunzig. You said he was active on the campus. As I said, we are interested only in those who were members of the party. Are you saying that you don't know whether he was a member of the party?

Mr. Crowley. Yes; because I cannot remember his face.

Mr. Clardy. I don't understand that question.

Mr. Crowley. I cannot remember him being at a party meeting. I don't know what his face looks like, but the name rings a bell in my mind.

Mr. Clardy. You cannot remember whether he was or was not?

Mr. Crowley. Yes, he was; but I cannot remember his face.

Mr. Jackson. Had you ever worked with Ed Freeman upon any Communist Party project?

Mr. Crowley. I do not remember. If he was in the Ralph Neafus Club, because we all worked together on those things, but I do not remember specifically that he and I worked on it.

Mr. Kunzig. But you knew an Ed Freeman, even if you cannot place his face, to be a member of the Communist Party?

Mr. Crowley. Yes.

[fol. 379] Mr. Kunzig. Are there any other names that you can recall?

Mr. Crowley. Yes, there was Ed Pita.

Mr. Kunzig. Would that be Edward Gerald Pita, or did you know him as Ed?

Mr. Crowley. I just knew him as Ed.

Mr. Kunzig. You knew him as Ed Pita?

Mr. Crowley. Yes.

Mr. Kunzig. You knew him to be in the Neafus group?

Mr. Crowley. Yes.

Mr. Kunzig. Was he married?

Mr. Crowley. Yes; her name was Phyllis Pita.

Mr. Kunzig. You knew her to be a member of the party, too?

Mr. Crowley. Yes, the Ralph Neafus Club.

Mr. Clardy. Where did they come from?

Mr. Crowley. That I don't know.

Mr. Kunzig. Did you know a James Terrell?

Mr. Crowley. Yes, Jim Terrell was a member of Neafus. He left. I believe he left the party and became a convert to a religious faith. I forget which. It might have been the Catholic church, but I know he left.

Mr. Clardy. Did you say his first name was James?

Mr. Crowley. Yes, James.

Mr. Kunzig. You have testified how you became a member of the Ralph Neafus Club and your activities there at the University of Michigan.

Did you at any time then transfer to any other club of the Communist Party?

Mr. Crowley. Yes, I did. Before I left there, I transferred to the Haldane Club, which was a group for graduate students.

Mr. Kunzig. Did you request this or were you just put in automatically?

Mr. Crowley. No, I requested to leave the Neafus Club.

Mr. Kunzig. Would you tell us why you transferred to go from Neafus to Haldane?

Mr. Crowley. Well, I knew one or two people there and I wanted to be in the club with them.

Mr. Kunzig. And Haldane you say was composed of graduate students?

Mr. Crowley. Yes.

Mr. Kunzig. Did it contain teaching fellows, for example, employed as instructors?

Mr. Crowley. Yes.

Mr. Clardy. Students and teaching fellows?

Mr. Crowley. Yes.

Mr. Velde. When was it that you were transferred to Haldane, Mr. Crowley?

Mr. Crowley. I believe that was early in 1950 or the end of 1949; early in 1950, to the best of my knowledge.

Mr. Velde. That was prior to the Korean war?

Mr. Crowley. Yes.

Mr. Kunzig. Do you know, in the Haldane Club, a man by the name of Norman Cazden?

Mr. Crowley. Yes, I believe he taught at the music school.

[fol. 380] Mr. Kunzig. At the University of Michigan?

Mr. Crowley. Yes.

Mr. Kunzig. I believe that the record shows an assistant professor of music at the University of Michigan.

Mr. Crowley. Yes.

Mr. Kunzig. And you knew him to be a member of the Haldane Club and, of course, of the Communist Party?

Mr. Crowley. Yes.

Mr. Kunzig. I want to go back to some members of the Haldane Club in a few minutes.

Let us commence with your own experiences.

What sort of activities did the Haldane group engage in?

Mr. Crowley. They were chiefly of an intellectual nature discussing things. It was mainly a discussion group. There was very little of the activity of the kind that Neafus engaged in, that is, running around the campus with petitions or things like that.

Mr. Kunzig. Was Haldane even more secret than this Neafus, would you say?

Mr. Crowley. Yes, it is smaller, and it is not as open as Neafus.

Mr. Kunzig. How long did you stay a member of the party? Did you stay through your graduation in June 1950?

Mr. Crowley. Yes, then I left.

Mr. Kunzig. And you left Michigan?

Mr. Crowley. Yes, and the party.

Mr. Kunzig. And you left the party too?

Mr. Crowley. Yes.

Mr. Kunzig. Where did you go after June of 1950?

Mr. Crowley. I came to New York City and lived there ever since.

Mr. Kunzig. You did not affiliate with the Communist Party after you came back to New York?

Mr. Crowley. No, I had no connection with the party after I came back.

Mr. Kunzig. Did you attend open Communist Party rallies after you came back to New York?

Mr. Crowley. Yes, I did. I attended a party meeting, a case involving Willie McGee, sponsored by the American Labor Party, and I attended 1 or 2 rallies. I cannot recall what they were for.

Mr. Walter. Is this the movement for the relief of Willie McGee? Was that Communist-dominated?

Mr. Crowley. I don't know if it originated there, but in New York City it was led chiefly by the American Labor Party.

Mr. Walter. As I understand it, you belonged to three different Communist organizations in Ann Arbor.

Mr. Crowley. Two.

Mr. Walter. The Labor Youth League, the Neafus Club and the Haldane.

Mr. Crowley. Yes.

Mr. Walter. How many members of the Communist Party were there in these three organizations?

Mr. Crowley. The Labor League had membership of maybe 20 or 30, to my knowledge, and the Raiph Neafus Club had a membership of, a regular membership of about 10 or 15 people and others came in and left from time to time. Some people were invited into a meeting and they would leave and would not come back and some would stay [fol. 381] in a few weeks and left and the Haldane Club was quite small. I think it had about 8 or 10 people, if that.

Mr. Clardy. Wasn't there a fourth organization in town, or didn't you know about the club downtown called the Town Club?

Mr. Crowley. I knew there was a group downtown but I did not belong to that. I did not have any connection with it.

Mr. Clardy. That downtown club is composed primarily of permanent residents of Ann Arbor, is it not?

Mr. Crowley. People live there, yes.

Mr. Clardy. But you knew there was such a Communist organization?

Mr. Crowley. Yes.

Mr. Clardy. And occasionally, I presume, there was some intermingling of people from that club with the other clubs you belonged to.

Mr. Crowley. No, maybe socially but not politically.

Mr. Clardy. I did not mean Communist Party meetings, but you got together because of your common adherences to the Communist Party.

Mr. Crowley. Yes.

Mr. Clardy. That is all I have on that point.

Mr. Kunzig. Before I go into the final part of your testi-

mony, which is the names of the members in Haldane, I had you to the point where you went to New York and had no specific contact except that you did go to certain Communist front rallies. Did you ever go to any other schools?

Mr. Crowley. Yes, I enrolled at the Jefferson School.

Mr. Kunzig. The Jefferson School of Social Science?

Mr. Crowley. Yes, and I stayed there about a month or so and left it.

Mr. Kunzig. Did you work at any summer camps?

Mr. Crowley. Yes, at Camp Unity.

Mr. Clardy. It has been identified but I think we should have this further identification that the Jefferson School of Social Science was a Communist school. You do know it to be such, do you not?

Mr. Crowley. Well, it certainly taught the Communist Party line.

Mr. Clardy. Do you know any students at the school who were not members of the Communist Party?

Mr. Crowley. No, I did not know anyone who was a member there.

Mr. Walter. Where was this school?

Mr. Crowley. In New York City.

Mr. Walter. Were there any members of the faculty at the school who were not Communists?

Mr. Crowley. I do not know as to whether or not they were because I had no contact with them. I know certain of them expressed open allegiance to the Communist Party but I don't know if they were members or not. I don't know that.

Mr. Clardy. All you knew were?

Mr. Crowley. The ones I knew were, yes.

Mr. Clardy. The students you knew to be members of the Communist Party.

Mr. Crowley. I did not know them to be members.

[fol. 382] Mr. Velde. I am sorry we will be unable to finish with this witness before noon as we promised to adjourn promptly at noon, so the committee will stand in recess now until 2 o'clock this afternoon.

(Whereupon, at 12:00 noon, the hearing was recessed, to reconvene at 2 p. m., of the same day.)

AFTERNOON SESSION

(At the hour of 2:07 p. m. of the same day, the proceedings were resumed, Representatives Harold H. Velde (chairman), Gordon H. Scherer, Francis E. Walter (appearance noted in transcript), Morgan M. Moulder (appearance noted in transcript), and Clyde Doyle being present.)

Mr. Velde. The committee will be in order.

Mr. Reporter, let the record show for the purposes of the continued hearing of Mr. Crowley's testimony that I have appointed a subcommittee consisting of Mr. Scherer, Mr. Doyle, and myself as chairman, and Mr. Walter, a quorum of the subcommittee.

Proceed, Mr. Counsel.

Mr. Kunzig. Would you please take the stand, Mr. Crowley.

TESTIMONY OF FRANCIS XAVIER THOMAS CROWLEY—Resumed

Mr. Kunzig. Before the luncheon break, I was questioning you about the Haldane Club which you said you got into after you left the Ralph Neafus Club of the Communist Party.

Mr. Crowley. Yes.

Mr. Kunzig. The final questions I wish to ask you are about the other members of the Haldane Club. Would you please tell the committee the names of those people and as much identifying information as you can give about those whom you knew and remember only of your personal knowledge to be members of the Communist Party in the Haldane Club?

Mr. Crowley. All right.

There was a man named Chuck Bisdee. I forget his first name.

Mr. Kunzig. Do you have any further identification of Chuck Bisdee, age or address?

Mr. Crowley. No. He was a graduate student. I don't know his address.

Mr. Kunzig. At Michigan?

Mr. Crowley. At Michigan, yes. I believe he was in the AVC. I was a member of that myself, the American Veterans Committee.

Mr. Kunzig. But you knew Chuck Bisdee in the Communist Party, too?

Mr. Crowley. Yes.

Mr. Kunzig. Any others?

Mr. Crowley. Yes, there was another member of the group, Max Dean.

Mr. Kunzig. Can you identify him further?

Mr. Crowley. No, except he was a law student at that time.

Mr. Kunzig. I think the record at this time should show that Max Dean very recently was a fifth amendment witness in Flint, Mich., and he was at the hearings we held out there.

He was in law school?

[fol. 383] Mr. Crowley. Yes, he left and I don't know whether he came back.

Mr. Kunzig. You mean he left the university?

Mr. Crowley. That is right.

Mr. Kunzig. And you never saw him again?

Mr. Crowley. That is right. He may have come back but I don't remember.

Mr. Kunzig. Any others?

Mr. Crowley. Yes, there was Jack Geist. I believe it is spelled G-e-i-s-t. He was there while I was there. I don't know any other identification of him except that he also was a graduate student.

Mr. Kunzig. I think the record should show that Geist, after leaving the University of Michigan, became an instructor or assistant professor at the Massachusetts Institute of Technology. In June of 1952 he applied for a United States passport for the purpose of teaching at the University of Israel. You have no further information beyond that point? You knew Jack Geist to be a member of the Communist Party?

Mr. Crowley. Yes.

Mr. Kunzig. Any others?

Mr. Crowley. Yes, there is a Martin Hoffman. He was

also a student there. I knew him. He was a graduate student.

Mr. Doyle. Mr. Chairman.

Mr. Velde. Mr. Doyle.

Mr. Doyle. Mr. Chairman, I did not have the benefit of being here this morning. I was in my Armed Services Committee, and I have just noticed the witness saying in answer to counsel's question, "Do you know him to be a member of the Communist Party?"; I presume counsel laid the foundation generally laid and I think that always should be laid as to how this witness knows that these people were members of the Communist Party

Mr. Kunzig. Yes, Mr. Doyle, that has been gone into at length.

Mr. Doyle. I presume you did that this morning.

Mr. Kunzig. The witness testified that while at the University of Michigan he was in both the Ralph Neafus Club of the Communist Party and he testified about that in detail, and also the Haldane Club of the Communist Party.

Mr. Doyle. And were those closed meetings?

Mr. Kunzig. Yes, sir, closed meetings, and we specified that he name only those people he knows definitely to be members of the Communist Party.

Mr. Doyle. Thank you.

Mr. Kunzig. You mentioned Martin Hoffman. Do you have any further identification of Martin Hoffman that will help us?

Mr. Crowley. He was a graduate student and I believe he taught for a while.

Mr. Kunzig. Do you have any idea what he taught?

Mr. Crowley. Yes, psychology.

Mr. Kunzig. At Michigan?

Mr. Crowley. Yes.

Mr. Kunzig. Do you know Lloyd L. Barenblatt?

Mr. Crowley. Yes.

Mr. Kunzig. Tell us about your knowledge of Lloyd Barenblatt.

Mr. Crowley. He also was a graduate student there and I lived with him. We shared an apartment for a while.

[fol. 384] Mr. Kunzig. Then you knew him very well?

Mr. Crowley. Yes.

Mr. Kunzig. And you knew him to be a member of the Haldane Club in the Communist Party?

Mr. Crowley. Yes, just the Haldane Club.

Mr. Kunzig. The Haldane Club of the Communist Party, I should say.

Mr. Crowley. Yes, and to my knowledge he left that and he left the University of Michigan.

Mr. Kunzig. Do you know where he teaches at the present time, if he teaches?

Mr. Crowley. Yes, he is at Vassar. I would like to say, in fairness to him——

Mr. Kunzig. Any testimony you can give, we would be glad to have.

Mr. Crowley. Yes, that he expressed to me his opinion that he was pretty much of the same opinion that I was about membership in the party. I am convinced that he has left it, the Communist Party.

Mr. Kunzig. Your close knowledge of him was up to about 1950?

Mr. Crowley. Yes, I have seen him a few times since then, occasional visits.

Mr. Kunzig. Are there any others?

Mr. Crowley. Yes, there was a Mazie Gusakoff.

Mr. Kunzig. Would you spell Mazie Gusakoff?

Mr. Crowley. G-u-s-a-k-o-f-f. The Mazie I am not sure of.

Mr. Kunzig. You knew her to be a member of the Haldane Club of the Communist Party?

Mr. Crowley. Yes, for a while she attended meetings there.

Mr. Kunzig. During the period of time that you did?

Mr. Crowley. Yes.

Mr. Kunzig. How about Lester Beberfall?

Mr. Crowley. Yes, he was a member at that time.

Mr. Kunzig. Of the Haldane Club?

Mr. Crowley. Yes.

Mr. Kunzig. And you knew him to be a member definitely of the Communist Party?

Mr. Crowley. Yes, in the Haldane Club meetings.

Mr. Kunzig. Can you give us any further identification on Lester Beberfall, any further assistance?

Mr. Crowley. He was a graduate student.

Mr. Kunzig. Where?

Mr. Crowley. At the University of Michigan, and I believe he was a teaching fellow in the language department.

Mr. Kunzig. Do you know where he is at the present time?

Mr. Crowley. No, I don't.

Mr. Kunzig. When did you have any contact with him last?

Mr. Crowley. In 1950.

Mr. Kunzig. I have no further questions, Mr. Chairman.

Mr. Velde. Mr. Reporter, let the record show that I have appointed a new subcommittee consisting of Mr. Moulder, Mr. Doyle, and myself as chairman, for the purpose of continuing this hearing.

(Representative Morgan M. Moulder entered the hearing room at this point.)

(Representative Francis E. Walter left the hearing room at this point.)

[fol. 385] Mr. Kunzig. I presume you have no questions of this witness, Mr. Moulder.

Mr. Moulder. No questions.

Mr. Kunzig. Mr. Doyle.

Mr. Doyle. Yes, Mr. Chairman, and may I be privileged to ask just a few. Again I realize that I don't know what you have answered by way of questions from committee members, but I do see from the record that there were proceedings against you initiated in Congress.

Mr. Crowley. That is right.

Mr. Doyle. And your previous refusal to answer questions before the committee which the committee felt were such that your answers placed you in a legitimate contempt. Now, you are back here voluntarily?

Mr. Crowley. Yes.

Mr. Doyle. You are here without counsel?

Mr. Crowley. Yes.

Mr. Doyle. Evidently voluntarily, is that correct?

Mr. Crowley. Yes.

Mr. Doyle. In other words, you are here now helping the committee in its legal responsibility? I want to compliment you for doing that. I see you are a comparatively young man, evidently in a position of some leadership and responsibility. That places an additional responsibility on you.

But have you any suggestion to make to this committee out of your experience which might add to our effectiveness, in your judgment, in our discharge of our duties under Public Law 601?

Mr. Crowley. No, it is hard for me to add anything to the procedures you have taken. I would say that I think there are quite a few people who, like myself, were members of the Communist Party and no longer are and have some reason or other for refusing to cooperate with the committee or testify. Those people are doing a great disservice to themselves and to the country and I think that they could be reasoned with to take the approach I have taken.

I think it would be well worth the effort to try to convince these people with arguments that they are wrong by not testifying.

Mr. Doyle. Yes, but you were an American citizen when you were appearing before the committee before.

Mr. Crowley. That is the mistake I made.

Mr. Doyle. This was the same committee.

Mr. Crowley. Yes.

Mr. Doyle. And yet you pleaded your constitutional privilege.

Mr. Crowley. No, I did not, sir.

Mr. Kunzig. He just refused to testify.

Mr. Doyle. That is what placed you in legitimate contempt.

Mr. Crowley. Yes.

Mr. Doyle. Have you any suggestions to this committee as to how we could perhaps induce more young men and women or older citizens to, as you say, help the committee in helping to discharge its official duties? What can we do? We have given an invitation over the radio and through the press and every other way.

Mr. Crowley. One way might be if a witness is willing to

cooperate, to safeguard them in some way, provided they do not take the course I took and refuse to testify, to safeguard them in some way from publicity or from harmful [fol. 386] social repercussions. That is an unfortunate thing.

Mr. Doyle. Yes, but you are going to suffer.

Mr. Crowley. Yes, I learned myself that I took the wrong course.

Mr. Doyle. Now, why do you place yourself in perhaps a place where there will be repercussions? Why do you do it now and you did not do it before?

Mr. Crowley. Well, I have a sense of responsibility now that I did not have then, and I have something to live for other than just myself. I have a wife and I am going to have a child. When I appeared before the committee the last time I had neither of those and I am not going to punish them for something I did, something I do not believe in.

Mr. Doyle. In other words, before you were following the Communist Party line and refusing to cooperate with the committee?

Mr. Crowley. No, I was not following it. I was just acting on my own impulse. I had not yet any contact with the Communist Party since 1950 when I appeared the last time. It was my own decision to do it that way. I was wrong.

Mr. Doyle. Thank you very much.

Mr. Kunzig. No further questions, Mr. Chairman.

Mr. Velde. Mr. Moulder, do you have any questions?

Mr. Moulder. I was not here during the earlier part of your testimony, but did you explain to the committee what influence persuaded you to go into the party?

Mr. Crowley. Yes, I did. I said that I was searching for some kind of a faith or ideology to hang onto, some spiritual thing, and I thought that was it. It served for a whole. It took the place of a faith that I had lost.

I was brought up as a Catholic and it was some kind of spiritual help to me, a support, a crutch to lean on while I was in it. And then I saw what it was and I lost that and I have gone back to my original faith. But I think my reason was because I was at odd ends with myself and the world and I did not know how to solve my own personal problems.

Mr. Moulder. At that time did you consider yourself a party to the conspiracy of a world revolutionary movement to overthrow our form of government?

Mr. Crowley. I do not think I ever thought of it that way, that I was actively, you know, engaged in that kind of thing. I am convinced I never thought of it in the terms of a conspiracy. Maybe I did not realize it or maybe I was naive about it, but I do not think I ever felt like that.

Mr. Doyle. May I ask one more question, Mr. Chairman?

Mr. Velde. Mr. Doyle.

Mr. Doyle. Do I understand that for a period of perhaps 2 or 3 years you tried to substitute communism for the Christian faith and found it was no substitute?

Mr. Crowley. That is right, that sums it up.

Mr. Doyle. Thank you.

Mr. Velde. I have just a few questions. Mr. Crowley. I do not mean to be castigating you by any stretch of the imagination. On the other hand, I do want to congratulate you on taking the stand you have taken today, but there is something that worries me about members of the Com- [fol. 387] munist Party who remain in membership after 1948 and 1949. There has been quite a little information given out by legitimate Government officials concerning the nature of the Communist Party after that time. I am wondering whether you or any of your fellow members of the Communist Party in 1950 ever considered the statements made by our Supreme Court and this Un-American Activities Committee and other committees of Congress concerning the nature of the Communist conspiracy.

Did you ever stop to consider that?

Mr. Crowley. Yes, I followed the Smith trials, the original Smith trials of the Communist Party leaders and up to about the time of the Korean war or shortly after it began I did not think that the Communist Party was guilty in the sense that the Smith Act had indicted it to be, or the leaders of the Communist Party.

Mr. Velde. You were in the party how long after the Korean war started?

Mr. Crowley. I was in the party until about August 1950, about July of 1950. The Korean war started in June.

Mr. Velde. June 30, wasn't it, or about the 20th of June.

Well, now, Mr. Crowley, at the time that we sent troops to South Korea to defend against the onslaught of North Koreans, were you propagandized into believing that the attack was by the South Koreans?

Mr. Crowley. I was at that time.

Mr. Velde. Did you feel that it was?

Mr. Crowley. I did when the fighting first started, but I changed my mind about that, as I think a lot of people did.

Mr. Velde. That is when you were in the Haldane Club?

Mr. Crowley. Yes.

Mr. Velde. And you were a postgraduate student and so were the others, mostly postgraduate students?

Mr. Crowley. Yes.

Mr. Velde. Did they ever discuss this topic in closed meetings of the Haldane Club, that is, who is the aggressor in the Korean war?

Mr. Crowley. Yes, the opinion was that South Korea was the aggressor.

Mr. Velde. How did they arrive at that conclusion?

Mr. Crowley. I don't know. It was just stated that South Korea invaded North Korea.

Mr. Velde. Did it come from higher sources in the Communist Party; do you know?

Mr. Crowley. Well, it must have, because I do not think anyone there would have; you know, devised that explanation for the war.

Mr. Velde. Do you recall any of the other matters which were discussed by your group in the meetings at the Haldane Club particularly?

Mr. Crowley. Let me see.

Mr. Velde. Did you study Marxism?

Mr. Crowley. Yes, pamphlets on Marxism. I forget which ones, but the discussion centered around, as I recall, literature and cultures, on the subjects of arts, the relation to communism of Marxism, what is the function of the artist in that respect.

The Haldane Club was chiefly an intellectual group, discussion group.

[fol. 388] Mr. Velde. That was only, as you testified be-

fore, about 8 or 10 members of the postgraduate group at the University of Michigan?

Mr. Crowley. Yes.

Mr. Velde. Do you have any idea how many postgraduates were in the University of Michigan at that time?

Mr. Crowley. The student body was about 20,000 altogether, and I think there must have been about at least 15,000 in the college, so I guess the graduate students would be 12,000 to 15,000, I think.

Mr. Velde. Of course, that is a very minute percentage considering the whole population. However, we have seen how small percentages of dyed-in-the-wool Communist Party members can take over large majorities in other countries behind the Iron Curtain.

You say, however, you did not have any idea you were engaged in a conspiracy to overthrow the American constitutional form of government?

Mr. Crowley. No.

Mr. Velde. Do you feel that your colleagues had that idea, that they were engaged in a conspiracy?

Mr. Crowley. I am sure that the ones I knew did not have that notion. They were people who were mostly the intellectual type of people who were getting their feet wet on something or other. Some of them may have had that in their mind, but I never heard it expressed in the terms of overthrowing anything. It was never expressed to me that way.

Mr. Velde. Could we sum up your reasons for going into the Communist Party in the first place and your reasons for getting out something like this; that you were personally disturbed over the social situation in the United States and that you had personal problems of your own that you thought you could solve by getting into the Communist Party?

Mr. Crowley. Yes.

Mr. Velde. And that is the reason you got in?

And now, as far as getting out of the Communist Party, did you ever submit a formal resignation?

Mr. Crowley. No, when I left the Haldane Club, which was in July of 1950, and I left Ann Arbor at the same time,

in August, after I graduated, and I never got a transfer or anything of that sort. I just stopped.

Mr. Velde. You just stopped attending meetings of all kinds in 1950 and had nothing further to do with the Communist Party whatsoever?

Mr. Crowley. That is right.

Mr. Velde. And your reasons for getting out of the party or for being disinterested in further attendance in meetings in the Communist Party was that you felt it had not solved your personal problems?

Mr. Crowley. It had not solved my personal problems and it had not done me—in fact, it had done me more harm than good because it had given me a false picture of the world, a false picture of what is right and wrong. From the way I am living, I am certainly not living according to the way a Communist might be expected to live. And I feel I am right now, so I must have been wrong then.

[fol. 389] Mr. Velde. I am glad to hear you say that. You definitely feel now that the Communist Party is a conspiracy and not a political party whatsoever?

Mr. Crowley. That is right.

Mr. Velde. May I say that we certainly do appreciate the information you have given here voluntarily to the committee.

As I mentioned before, the committee would not be authorized as a body to ask for immunity from prosecution for you. However, I do feel that many of the members of the committee, probably a big majority, feel that you have performed a service to your country by giving us the information that you have and that would possibly be a good reason why the Attorney General should drop prosecution in your particular case for contempt.

Does any other member have anything further?

Do you have anything further, Mr. Counsel?

Mr. Kunzig. Nothing further.

Mr. Velde. If not, the witness is excused with the committee's thanks.

Call your next witness.

Mr. Kunzig. Robert H. Silk.

Mr. Velde. Will you raise your right hand?

Mr. Silk. Mr. Chairman, before I take the oath, I wish to raise an objection to the jurisdiction of this committee to administer the oath.

Mr. Velde. You have no right to raise any objection to the jurisdiction of this committee.

Does the witness refuse to take the oath?

Mr. Silk. I will take the oath, under protest.

Mr. Velde. In the testimony you are about to give before this subcommittee, do you solemnly swear you will tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Silk. I do.

Mr. Velde. Mr. Reporter, for the purposes of this hearing, let the record show that I have appointed as a subcommittee Mr. Walter, Mr. Moulder, Mr. Doyle, and myself as chairman, four members are present as a quorum.

Proceed, Mr. Counsel.

* * * * * * *

[fol. 390] TESTIMONY OF LLOYD BARENBLATT, ACCOMPANIED BY HIS COUNSEL, PHILIP WITTENBERG

Mr. Kunzig. Would you state your full name, please, sir?

Mr. Barenblatt. My name is Lloyd Barenblatt, B-a-r-e-n-b-l-a-t-t.

Mr. Kunzig. What is your present address, sir?

Mr. Barenblatt. My present address is Route No. 2, Pleasant Valley, N. Y.

Mr. Kunzig. Mr. Barenblatt, I see that you are accompanied by counsel.

Would counsel please state his name and office address for the record.

Mr. Wittenberg. Philip Wittenberg, W-i-t-t-e-n-b-e-r-g, 70 West 40th Street, New York City, N. Y.

Mr. Kunzig. Thank you, sir.

[fol. 391] Mr. Barenblatt, will you give the committee a brief résumé of your educational background?

Mr. Barenblatt. Yes, sir. I suppose they want me to begin at the high school level?

Mr. Kunzig. Fine.

Mr. Barenblatt. I attended Clinton High School in New York City.

Mr. Kunzig. When did you graduate?

Mr. Barenblatt. January 1940, as I recall. I then enrolled as a student at the College of the City of New York; that was in February 1940.

I left the College of the City of New York for one semester. I enrolled in the United States Maritime Service. When there I was struck with spinal meningitis. I left the Maritime Service to recuperate, and went back to school while I was convalescing. My classification was 4-F. However, as soon as I felt better I appeared for voluntary induction into the United States Army for aviation cadet training.

Mr. Kunzig. What is your present age, Mr. Barenblatt?

Mr. Barenblatt. 31, sir.

Mr. Kunzig. Have you completed your formal education?

Mr. Barenblatt. Well, I still intend to complete the requirements for a doctor of philosophy degree. I have a bachelor's degree from City College.

I am sorry. I didn't finish my educational background.

Mr. Kunzig. Go right ahead.

Mr. Barenblatt. It was an oversight on my part. Excuse me.

Mr. Kunzig. All right.

Mr. Barenblatt. I attended the University of Iowa when I was discharged from the Army. I spent a year and a half, I believe, at the University of Iowa.

In the summer of 1947 I enrolled in the University of Michigan in the graduate school of studies for the purpose of working for the Ph. D. in social psychology.

Mr. Kunzig. What period of time exactly were you at the University of Michigan?

Mr. Barenblatt. I was in residence at the University of Michigan from the summer of 1947 until the spring semester of 1950.

Mr. Kunzig. Did you know Francis Crowley at that time, who testified here this morning?

Mr. Barenblatt. Sir, I would like here to state my objections to the power and jurisdiction of this committee to

inquire into my political beliefs, my religious beliefs, and any other personal and private affairs or my——

Mr. Kunzig. Just a minute. I asked you a very simple question, which I don't think has anything to do with religious beliefs, or all the other beliefs you mentioned.

Do you know Francis Crowley?

Mr. Barenblatt. Yes.

Mr. Kunzig. Yo do know him?

Mr. Kunzig. You can hold that for a minute. I will get around to it in a minute.

Now, did you hear Crowley testify this morning?

Mr. Barenblatt. Yes, sir.

[fol. 392] Mr. Kunzig. You heard him identify Lloyd Barenblatt as a person he knew to have been a member of the Communist Party?

Mr. Barenblatt. I believe I heard him to say, I believe his words were more in the way of saying that I was a member of the Haldane Club, I don't recall exactly his saying that I was a member of the Communist Party. However, I suppose the record will show that.

Mr. Kunzig. The record shows the Haldane Club meant the Haldane Club of the Communist Party.

Mr. Velde. And I think that was made clear in his previous testimony.

Mr. Barenblatt. If the record so states, I don't remember, sir.

Mr. Kunzig. It does.

Now, were you a member of the Haldane Club of the Communist Party at Michigan?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. At this point I respectfully would like to object to the questions——

Mr. Doyle. Mr. Chairman——

Mr. Velde. All right. You have the floor.

Mr. Doyle. Before the young man takes the time of the committee to read that, whatever it is, may I just urge you to think even more seriously than you have about whatever position you are going to take before this committee.

I know you have competent counsel, and of course you should rely on him, possibly, but I anticipate you might be preparing yourself to take the position opposite to that of cooperation with the committee.

I am in no position to give you legal advice, but I know from the record that you are an instructor in a certain very distinguished college, by reputation, at least, and wouldn't it be a magnificent thing if you could take the position that if you ever were a member of the Communist Party, that you say so frankly and clean up and get out of that embarrassing situation and then start from there? Wouldn't that do you and the country a lot more good today——

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Doyle. Or put it on this basis. Wouldn't it do your country a lot more good?

Mr. Barenblatt. I appreciate your concern, sir.

Mr. Doyle. I am opening the door for you, sir.

Mr. Barenblatt. I understand, sir. However, I feel that this statement of objection which I am about to read might explain some things to the members of the committee.

Mr. Doyle. Well, as a young man you can never say now that we haven't opened the door deliberately, and maybe I am embarrassed before the committee at this point——

Mr. Velde. You certainly have given him every opportunity, Mr. Doyle, and I think he has had every opportunity before to come clean.

Let me say this about this statement you are about to read.

You are familiar with the rules of this committee——

Mr. Barenblatt. I believe so, sir.

Mr. Velde. The committee made them some time ago. And are you familiar with rule 9 concerning statements by witnesses?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

[fol. 393] Mr. Velde. If not, let me read them again. [Reading:]

Any witness desiring to make a prepared or written statement for the record of the proceedings in executive or public sessions shall file a copy of such statement with the counsel of the committee within a reasonable period of time in advance of the hearing at which the statement is to presented.

All such statements so received which are relevant and germane to the subject of the investigation may, upon approval, at the conclusion of the testimony of the witness, by a majority vote of the committee or subcommittee members present, be inserted in the official transcript of the proceedings.

It is my feeling, and I am sure the other members agree, that your submitting the statement at the present time is not a reasonable time prior to the hearing. Now——

Mr. Barenblatt. May I say this——

Mr. Velde. Now, let me ask you one question. If you answer in the affirmative or in the negative, either one, then I believe that the committee would be very willing to let you read this statement.

Are you now a member of the Communist Party?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. Sir, this is an objection to the questions asked by the committee.

Mr. Velde. I realize——

Mr. Barenblatt. It is not a preliminary statement——

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. And I ask for leave to read the objections.

Mr. Velde. It is assumed by the committee to be a preliminary statement.

Now, will you answer the question if you are a member of the Communist Party at the present time?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. I object on the following grounds——

Mr. Kunzig. Mr. Chairman, he is about to read an 11-page legal brief. This is obviously a delaying tactic.

Mr. Velde. I am not going to let him do it. The committee will take the statement up in executive session and determine if it should be placed in the record.

Mr. Barenblatt. But, sir, I believe I have a right to state my objections to the question. That is all I am doing.

Mr. Velde. You will be given that right if you will answer the question in the affirmative or the negative.

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. What is the question?

Mr. Velde. Whether you are a member of the Communist Party at the present time.

Mr. Barenblatt. May I confer with counsel?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. I object to this on the grounds that I will state and that I have handed to the committee.

Mr. Walter. Never mind objecting. Do you decline to answer?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. I do not decline to answer. I am objecting to the question.

Mr. Velde. Then will you answer?

Mr. Barenblatt. I am objecting to the question, sir. I wish that I might make that clear. I don't see what the [fol. 394] trouble is about stating my grounds for objection. I notice that the other witnesses have been able to do so, and I wish to claim the privilege——

Mr. Kunzig. The other witnesses didn't decline to answer. Do you decline to answer?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. I decline to answer——

Mr. Velde. Now, Mr. Witness, perhaps you are not familiar with the procedure before a congressional committee. It is entirely different than before a court of law. This is not a court of law. Your privileges are set up in the rules of the committee, and I assume you have a copy of the rules of the committee.

Mr. Wittenberg. I have, sir.

Mr. Velde. And we cannot have counsel putting the answers into the witness' mouth. You have a right to confer with your witness as far as his constitutional rights are concerned, but you have spoken loud enough to show that you are trying to get the witness to read this statement. Obviously——

Mr. Wittenberg. Sir, that would be my advice to him.

Mr. Kunzig. Now, he had started to say, Mr. Chairman, he declines to answer the question as to whether he is now a member of the Communist Party.

Now, do you so decline on the grounds of the fifth amendment, among other things, in this statement?

Mr. Barenblatt. I wish to confer with my counsel, please.

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. I do not invoke the fifth amendment in declining to answer. I decline to answer on the grounds stated in my objections as presented to the members of this committee, which you have not allowed me to read.

Mr. Walter. Now, may I inform you that you haven't the right to decline to answer by virtue of any decision of the court. It is because of the Constitution.

Now, do you decline to answer because of the constitutional provision?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. May I consult with counsel, sir.

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. I am declining to answer on constitutional grounds as stated in my objections.

Mr. Velde. But you do not include the fifth amendment in your reasons in declining; is that right?

Mr. Barenblatt. You are correct, sir.

Mr. Kunzig. Are you stating in this document which you have just handed to us, and which we have had no time to look at at all, that the fifth amendment is not included?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. Not included in my list of objections.

Mr. Kunzig. So you are declining to answer the question as to whether you are now a member of the Communist Party, and you are specifically not giving the fifth amendment as a reason for declining?

Mr. Barenblatt. That is correct, sir.

Mr. Kunzig. All right. Now, Mr. Chairman, I respectfully request that the witness be directed to answer the question: Are you now a member of the Communist Party?

[fol. 395] Mr. Velde. The witness is directed by the Chair to answer that question.

Mr. Barenblatt. I would like to consult with counsel, sir.

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. I decline to answer on the following grounds:

I, Lloyd Barenblatt, having been subpenaed before the Committee on Un-American Activities, by subpena dated the 28th day of May 1954——

Mr. Velde. Now, you have gone far enough with the statement. You are trying to read it into the record.

Mr. Barenblatt. May I continue with my grounds——

Mr. Velde. I say the statement is accepted by the committee and will be considered for insertion in the record.

Now, proceed with your answer.

Mr. Barenblatt. This is not a statement, not a preliminary statement. This is the grounds——

Mr. Velde. Whatever you want to call it.

Mr. Barenblatt. I would like to get it into the record.

Mr. Velde. Whatever you want to call this, if it is a state-

ment of objections, it will be considered by the committee at a future time for insertion into the record.

Now, will you answer the question?

Mr. Barenblatt. May I consult with counsel?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. I am objecting on these grounds, and I will not answer any questions about which the list of objections is read: my political beliefs; my religious beliefs; any other personal and private affairs; my associational activities.

I will not answer any of those questions on the grounds of my objections in this statement which I again respectfully request that I be able to read at this point to get into the record the objections so that we can proceed from that point.

Mr. Walter. We will spare you a lot of time.

I have read this, so a member of the committee is well acquainted with what is in it.

Now, let's proceed.

Mr. Velde. I want to know this from the witness.

In refusing to answer this question upon direction by the Chair, you are not relying upon the fifth amendment to the Constitution?

Mr. Barenblatt. You are correct, sir.

Mr. Velde. All right. Proceed.

Mr. Kunzig. And at no time in this interrogation of you today, at no time in your appearance before the House Committee on Un-American Activities, are you relying on the fifth amendment?

Mr. Barenblatt. I can't make any statement about what might occur in the future, sir. All I can say at this point, I have no anticipation now of doing so.

Mr. Doyle. At least today you are not relying on it, at this time?

Mr. Barenblatt. All I can talk about is the present——

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Kunzig. Mr. Chairman, I respectfully request that since the witness has asked to be able to put this document

into the record as his reason for not answering the question [fol. 396] that he has been asked, which is, Are you now a member of the Communist Party, which he was directed to answer and which he refused again to answer, I respectfully request that this document be included in the record as his reason for not answering.

Mr. Velde. Yes. I have not had an opportunity to read the full statement, but I am going to take the word of my colleague from Pennsylvania and my colleague from California, and without objection, at this point the objections or statement, or whatever the witness wants to call it, will be inserted into the record as Barenblatt Exhibit No. 1.

(The document headed "Objection to Jurisdiction of the Committee on Un-American Activities and to Questions Propounded by It," was received in evidence as Barenblatt Exhibit No. 1.)

BARENBLATT EXHIBIT NO. 1

OBJECTION TO JURISDICTION OF THE COMMITTEE ON UN-AMERICAN ACTIVITIES AND TO QUESTIONS PROPOUNDED BY IT

1. I, Lloyd Barenblatt, having been subpenaed before the Committee on Un-American Activities, by subpena dated the 28th day of May 1954, returnable on the 28th day of June 1954, hereby respectfully object to the power and jurisdiction of this committee to inquire into——

(*a*) My political beliefs;

(*b*) My religious beliefs;

(*c*) Any other personal and private affairs;

(*d*) My associational activities.

2. I am a private citizen engaged in work in the fields of education and research, and in writing and speaking in connection therewith. I hold no office of public honor or trust. I am not employed by any governmental department. I am not under salary or grant from any governmental department.

3. The grounds of my objection are as follows:

A. Any investigation into my political beliefs, my religious beliefs, any other personal and private affairs, and my associational activities, is an inquiry into personal and private affairs which is beyond the powers of this committee. I rely not upon my own opinion but upon statements contained in the opinions of the Supreme Court of the United States. Among others, in *United States* v. *Rumely* (345 U. S. 41, 58), the Supreme Court of the United States said in a concurring opinion by Mr. Justice Douglas: "The power of investigation is also limited. Inquiry into personal and private affairs is precluded."

In *McGrain* v. *Daugherty* (273 U. S. 135), the Court said: "Neither House is invested with 'general' power to inquire into private affairs and to compel disclosures."

And in *Kilbourn* v. *Thompson* (103 U. S. 168), the Court said:

> "Neither the Senate nor the House of Representatives 'possesses the general power of making inquiry into the private affairs of the citizens'."

In *West Virginia State Board of Education* v. *Barnette* (319 U. S. 624), the Court, in an opinion by Mr. Justice Jackson said:

> "If there is any fixed star in our constitutional constellation it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion or force citizens to confess by word or act their faith therein."

It follows therefore that this committee is without power to examine into my political, religious, associational and private affairs.

B. The right to refuse to answer to any official, or indeed to anyone, with regard to one's personal affairs is a valuable right in a democracy which ought not lightly be ceded, or indeed ought ever be impinged upon by any public official. The Congress of the United States is composed of elected officials who have no power to intrude into the private affairs of American citizens. They cannot by resolu-

tion increase their constitutional authority. As was said by the Supreme Court of the United States in *Jones* v. *Securities & Exchange Commission* (298 U. S. 1):

> [fol. 397] "The citizen when interrogated about his private affairs has a right before answering to know why the inquiry is made; and if the purpose disclosed is not a legitimate one, he may not be compelled to answer."

And again in *McGrain* v. *Daugherty* (273 U. S. 135): "That a witness rightfully may refuse to answer where the bounds of the power are exceeded."

It was said by Mr. Justice Frankfurter in *United States* v. *United Mine Workers of America* (330 U. S. 258, 307):

> "The historic phrase 'government of laws and not of men' epitomizes the distinguishing character of our political society." * * * "'A government of laws and not of men' was the rejection in positive terms of rule by fiat, whether by the fiat of governmental or private power. Every act of Government may be challenged by an appeal to law, as finally pronounced by this Court."

And again in *Youngstown Sheet & Tube Co.* v. *Sawyer* (343 U. S. 579):

> "The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertions of authority."

Within the meaning of these decisions I regard it as one of the duties of a citizen of the United States to be vigilant against the accretion of dangerous power. I call to the attention of this Committee the opinion of Mr. Justice Douglas in *Youngstown Sheet & Tube Co.* v. *Sawyer* (343 U. S. 579), that even the cold war and the emergencies said to have been created thereby "did not create power."

C. Under the first amendment to the Constitution the power of investigation by Congress in matters involving

freedom of speech and freedom of the press is limited. There can be no investigation except for the purpose of legislation. As was said by Mr. Justice Van Devanter in *McGrain* v. *Daughterty* (273 U. S. 135, 178):

> "The only legitimate object the Senate could have in ordering the investigation was to aid it in legislating."

The Congress of the United States has no constitutional right to legislate with regard to prior restraint on utterance in either form; and as to any books already written or statements made, no ex post facto law can be passed determining innocence or criminality, therefore any investigations into my writings or speech or communications is beyond the power of this committee. As was said by Mr. Justice Douglas in *United States* v. *Rumely* (345 U. S. 41, 58):

> "Through the harassment of hearings, investigations, reports, and subpenas Government will hold a club over speech and over the press. Congress could not do this by law. The power of investigation is also limited. Inquiry into personal and private affairs is precluded."

D. Under our Constitution our Government is a government of limited powers, tripartite in form, consisting of the legislative, the judicial, and the executive. This separation is fundamental to the preservation of the rights of the people in order that no one department may, through its power, rise to become a despotic arbiter. This committee through this investigation into my political, associational, religious, and private affairs trespassed upon the judicial department and has caused a lack of balance of power which constitutes a threat to my liberty as an American citizen and is an unconstitutional usurpation. This usurpation has reached the point where the Supreme Court of the United States in *United States* v. *Rumely* (345 U. S. 41, 44), said:

> "'And so, we would have to be that "blind" court, against which Mr. Chief Justice Taft admonished in a famous passage, that does not see what all others

can see and understand' not to know that there is wide concern, both in and out of Congress, over some aspects of the exercise of the Congressional power of investigation."

No place is that usurpation better seen than in the trespassing by the legislature upon the judiciary. As was said in *Lichter* v. *United States* (334 U. S. 742, 779):

> "In peace or in war it is essential that the constitution be scrupulously obeyed, and particularly that the respective branches of the Government keep within the powers assigned to each by the Constitution."

And again in *Myers* v. *United States* (272 U. S. 52, 116), by Mr. Justice Taft:

> "If there is a principle in our Constitution, indeed in any free Constitution more sacred than another, it is that which separates the legislative, executive, and judicial powers."

And again by Mr. Justice Brandeis in *Myers* v. *United States* (272 U. S. 52, 293, 71 L. ed. 160):

> "The doctrine of the separation of powers was adopted by the Convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary [fol. 398] power. The purpose was not to fight friction but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy."

And again in *Kilbourn* v. *Thompson* (103 U. S. 168):

> "It is believed to be one of the chief merits of the American system of written constitutional law that all the powers entrusted to governments, whether State or National, are divided into the three grand departments: the executive, the legislative, and the judicial. * * * It is also essential to the successful working of this system that the persons entrusted with power in any one of these branches shall not be permitted to

encroach upon the powers confided to the others but that each shall by the law of its creation be limited to the exercise of the power appropriate to its own department and no other."

Not only did the founders of our Republic separate the departments of government, but they also limited the powers of each of those departments. It is a simple statement known to every American schoolchild that our Government consists of separate departments, that the powers of each of those departments is limited, and that all rights not granted to the Government are reserved to the people.

To be specific, Congress has the specific power to legislate granted to it by the Constitution. It has an implied power to investigate which, however, can be no broader than the power to legislate. In the absence of proposed legislation there can be no investigation, for all powers not expressly granted or necessarily implied are reserved to the people. Neither of the tripartite departments of our Government can claim any residual power as a basis for acting. In order that there might be no doubt about the limitations of power and the wish not to grant residual power the citizens of the several States insisted on the insertion in the Bill of Rights of amendment 9:

> "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

They reinforced amendment 9 by amendment 10:

> "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

This Congress and the committees appointed by it can enjoy only the powers expressly granted in the Constitution or necessarily implied therefrom. Congressmen or committeemen thereof as officials of the Government do not have, and cannot arrogate to themselves, a power to intrude into the private affairs of the people of the United

States, a power which the people reserve to themselves. The arrogation of power may be curtailed either by an appeal to the courts, or what is to be more hoped for, by the self-discipline of those entrusted with authority. The possibility of petty tyranny is ever present in a democracy unless the body of officialdom is wise and knows that self-limitation is essential to the success of our scheme of government. As Mr. Justice Frankfurter said in *Youngstown Sheet & Tube Co.* v. *Sawyer* (343 U. S. 579):

> "A constitutional democracy like ours is perhaps the most difficult of man's social arrangements to manage successfully. Our scheme of society is more dependent than any other form of government on knowledge and wisdom and self-discipline for the achievement of its aims."

But when such self-discipline is not apparent in the actions of any governing body then it becomes the duty of the citizen to challenge that act by an appeal to law. It is that duty which I here feel obliged to maintain. (See *United States* v. *United Mine Workers of America* (330 U. S. 258).)

This committee, by compelling me to leave my ordinary pursuits and to attend before it for the purpose of testifying with regard to my political beliefs, my religious beliefs, other personal and private affairs, and my associational activities, is acting as a judicial indicting and accusatory power. It is intruding into the judicial sphere and is following a practice which closely parallels the practices which resulted in bills of attainder being prohibited by our Constitution (art. I, sec. 10).

The present practices of this committee fall within the condemnation and prohibition of that section.

The Supreme Court said, in *United States* v. *Lovett* (328 U. S. 303, 317):

> "Those who wrote our Constitution well knew the danger inherent in special legislative acts which take away the life, liberty, or property of particular named persons because the Legislature thinks them guilty of conduct which deserves punishment. They intended to

safeguard the people of this country from punishment without trial by duly constituted courts. * * *

[fol. 399] "And even the courts to which this important function was entrusted were commanded to stay their hands until and unless certain tested safeguards were observed. An accused in court must be tried by an impartial jury, has a right to be represented by counsel, he must be clearly informed of the charge against him, the law which he is charged with violating must have been passed before he committed the act charged, he must be confronted by the witnesses against him, he must not be compelled to incriminate himself. * * *

"Our ancestors had ample reason to know that legislative trials and punishments were too dangerous to liberty to exist in the nation of free men they envisioned. And so they proscribed bills of attainder."

But a bill of attainder need not be the specific bill of attainder referred to in the Constitution. It may be any legislative act taken in connection with known punishments which together constitute a deprivation of civil rights. So to ask me whether I am or have been a member of the Communist Party may have dire consequences. I might wish to defend myself by taking recourse to the protection of the provisions contained in the Bill of Rights or challenge the pertinency of the question to the investigation. Should I invoke the protection of the Bill of Rights and the Constitution I thereby place my livelihood and my position in society in a position of jeopardy. Many of our States, municipalities, educational institutions, the Federal Government itself, and even private employers, have adopted rules of exclusion from employment for persons taking recourse in the Bill of Rights or the Constitution.

The Supreme Court of the United States took cognizance of this condition in 1950, a time when it had not yet reached the full flavor of today. For in 1950, Mr. Justice Black concurring in *Joint Anti-Fascist Refugee Com.* v. *McGrath* (341 U. S. 123, 144, 145), said: "In this day when prejudice, hate, and fear are constantly invoked to justify irresponsible smears and persecution of persons even faintly sus-

pected of entertaining unpopular views, it may be futile to suggest that the cause of internal security would be fostered, not hurt, by faithful adherence to our constitutional guaranties of individual liberty. Nevertheless, since prejudice manifests itself in much the same way in every age and country and since what has happened before can happen again, it surely should not be amiss to call attention to what has occurred when dominant governmental groups have been left free to give uncontrolled rein to their prejudices against unorthodox minorities. * * * Memories of such events were fresh in the minds of the founders when they forbade the use of the bill of attainder."

And he said further: "Moreover, officially prepared and proclaimed governmental blacklists possess almost every quality of bills of attainder, the use of which was from the beginning forbidden to both national and State governments. (United States Constitution, article I, sections 9, 10.)"

As was said in *United States* v. *Lovett* (328 U. S. 303, 324) cited by Mr. Justice Black in the preceding opinion:

> "Figuratively speaking all discomforting actions may be deemed punishment because it deprives of what otherwise would be enjoyed.
>
> "The deprivation of any rights, civil or political previously enjoyed, may be punishment, the circumstances attending and the causes of the deprivation determining this fact."

Upon all the grounds aforesaid I object not only to the jurisdiction of this committee, but also to the questions propounded by it. This objection is made upon the advice of counsel as to my rights as provided for in rule VII of the rules of procedure of this committee.

Counsel who appear for me are Philip Wittenberg and Irving Like of 70 West 40th Street, Borough of Manhattan, New York City.

Mr. Velde. Hereafter when you decline to answer a question, you may make your declination, in order to save time, on the basis of the statement of objections previously made.

Mr. Kunzig. I think in order that the record may be

clear, Mr. Chairman, the record should also show that the committee is bending over backward in fairness to this witness in spite of his violation of rule 9 of the committee.

He has been in possession of a copy of the rules as to how statements should be submitted and how a lengthy thing such as this statement should be submitted for a period, roughly, of a month.

[fol. 400] Mr. Barenblatt. May I say at this point, this is not my statement. It is my setting forth of my objections as the question is asked me before the committee.

I wish to comply with all the rules of this committee, and I respect them as set forth in this hearing. I certainly don't look upon myself as wilfully violating any rules, and I want to make it clear that this is not a preliminary statement before the committee, but it is the statement of my objections to the kinds of questions you are asking.

Mr. Velde. Now, in order to clarify the point made by counsel, Mr. Barenblatt, you did receive a copy of the rules at the time you were served with a subpena by this committee?

Mr. Barenblatt. Yes, sir.

Mr. Velde. And when were you served with your subpena?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. It is about a month ago, sir; I don't remember the exact date.

Mr. Velde. Mark that "Barenblatt Exhibit No. 2."

Without objection the subpena and return thereon will be introduced into evidence at this point.

(The subpena and return thereon above referred to, marked "Barenblatt Exhibit No. 2" for identification, was received in evidence as Barenblatt exhibit No. 2.)[1]

Mr. Velde. Now, at what time did you first give a copy of your objections, as you call them, to this committee or any member of its staff.

Mr. Barenblatt. May I consult?

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[1] Retained in committee files.

Mr. Velde. Yes.

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. In response to the question and objection thereto, I present the committee with these objections.

Mr. Velde. When did you present them for the first time?

Mr. Barenblatt. Well, I presented them for the record when the question was asked me regarding my——

Mr. Velde. Acquaintanceship——

Mr. Barenblatt. Private political association.

Mr. Velde. I didn't get that last answer—sorry.

Mr. Barenblatt. I believe it was when a question was asked me about my political and private associations. That is when I intended to invoke the objections as here stated.

Mr. Velde. But that was in the course of these hearings today?

Mr. Barenblatt. Yes, sir.

Mr. Velde. Do you feel that that was a reasonable time to submit it in advance to the committee or a member of its staff?

Mr. Barenblatt. Well, sir, I believe that the proper time to enter objections is when you object to a question being asked, so under those considerations I really think so, sir.

Mr. Velde. In other words, you did what you believed was right in spite of what the committee rules were, is that correct?

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Barenblatt. No, sir; I wouldn't put that interpretation on it at all.

[fol. 401] I believed what I did was right and I had no idea of what the committee's interpretation of this was at the time I submitted the statement.

Mr. Kunzig. Have you ever been a member of the Communist Party?

Mr. Barenblatt. I must object to that question on the grounds previously put into the record.

Mr. Kunzig. You may just say the same grounds and we

will understand it to mean this document which is Barenblatt Exhibit No. 1.

Mr. Barenblatt. Yes, sir; exhibit 1, sir.

Mr. Velde. All right. Now, Mr. Witness, you are directed to answer that question.

Mr. Barenblatt. I decline to answer on the basis of the grounds stated in exhibit 1.

Mr. Kunzig. Now, you have said that you knew Francis Crowley. Did you know Francis Crowley as a member of the Communist Party?

Mr. Barenblatt. I must decline to answer that question, sir, on the grounds as stated in my objections in exhibit 1.

Mr. Kunzig. Now, you don't have to do it. You said you must. Do you decline to answer?

Mr. Barenblatt. I do, sir.

Mr. Kunzig. I respectfully ask that he be directed on each of these questions, Mr. Chairman.

Mr. Velde. Yes. You are directed to answer the question propounded by counsel.

Mr. Barenblatt. The same question; I object on the grounds as previously stated in the exhibit.

Mr. Kunzig. Do you decline to answer?

Mr. Barenblatt. I decline to answer.

Mr. Kunzig. Were you ever a member of the Haldane Club of the Communist Party while at the University of Michigan?

Mr. Barenblatt. I decline to answer on the grounds as previously stated.

Mr. Velde. You are directed to answer that question, Mr. Witness.

Mr. Barenblatt. Sir, I respectfully decline to answer on the basis of the grounds as previously stated.

Mr. Kunzig. Were you a member while a student of the University of Michigan Council of Arts, Sciences, and Professions?

Mr. Barenblatt. I again decline to answer on the basis of the objections made in exhibit 1.

Mr. Velde. You are again directed to answer that question, Mr. Barenblatt.

Mr. Barenblatt. I must decline to answer these questions, sir, on the basis of the grounds as previously stated.

Mr. Kunzig. Let the record show, of course, that the National Council of Arts, Sciences, and Professions is a cited Communist-front organization.

Now, I want to go back to one point, Mr. Barenblatt. Would you please give the committee a brief résumé of your employment background?

Mr. Barenblatt. I held very temporary jobs before the time of my receiving a bachelor's degree. After that I was in the Army.

On being discharged from the Army I worked for a short time for a firm, I believe the name of it was Graphics Institute, in New York.

[fol. 402] I then enrolled in the University of Iowa and I believe the next regular employment after that was as a teaching fellow at the University of Michigan.

Mr. Kunzig. What did you teach?

Mr. Barenblatt. I taught psychologies.

Mr. Kunzig. Psychology?

Mr. Barenblatt. Yes, sir.

Mr. Kunzig. How long did you teach psychology as a teaching fellow at the University of Michigan?

Mr. Barenblatt. Let's see, I believe it was from the fourth semester of 1948 to the spring semester of 1950.

Mr. Kunzig. Would you continue, please.

Mr. Barenblatt. The fall semester of 1950 I was employed as an instructor at Vassar College and continued there until—I believe my contract ran until June 15 of this year at Vassar College.

I am not now employed.

Mr. Kunzig. What did you teach at Vassar College?

Mr. Barenblatt. Psychologies.

Mr. Kunzig. Is your contract finished there?

Mr. Barenblatt. Yes, sir; terminated.

Mr. Kunzig. So at the moment you are unemployed?

Mr. Barenblatt. Yes, sir.

(At this point Mr. Barenblatt conferred with Mr. Wittenberg.)

Mr. Kunzig. I want to ask one thing further, just so the record can be completely clear——

Mr. Barenblatt. Yes, sir.

Mr. Kunzig (continuing). And so there can be no doubt in the written record at all.

You have not, at any time this afternoon during your testimony before this committee in any way sought to invoke or raise the fifth amendment whatsoever up to the present moment, have you?

Mr. Barenblatt. You are entirely correct, sir.

Mr. Velde. Mr. Walter?

Mr. Walter. No.

Mr. Velde. Mr. Doyle?

Mr. Doyle. Mr. Chairman, I think the record should show that at this time there are pending before the United States Congress several active bills dealing with the question of subversive activities, dealing with the question of the Communist Party, dealing with the question of the responsibility that we have as a congressional committee under Public Law 601.

I am sure that is the record, and I would like the record of this hearing of this committee to especially show it——

Mr. Velde. Yes, I think——

Mr. Doyle (continuing). And that this witness and these other witnesses could help us in line with our Public Law 601 responsibility to have hearings with reference to recommendations for legislation in this area under Public Law 601 in accordance therewith.

Mr. Velde. I concur with you, Mr. Doyle, and I wish to further state that the record should show that the evidence or information contained in the files of this committee, some of them in the nature of evidence, shows clearly that the witness has information about Communist activities in the United States of America, particularly while he attended the University of Michigan.

[fol. 403] That information which the witness has would be very valuable to this committee and its work.

It is the opinion of the committee, at least the Chair, that the committee has a constitutional legal right in all ways and forms and means to get the information which has been requested from the witness.

If there is nothing further the witness is excused.

Do you have another witness, Mr. Counsel?

Mr. Kunzig. Mr. Lucas.

Mr. Barenblatt. Thank you, sir.

Mr. Kunzig. Mr. Jack Lucas, L-u-c-a-s; is he in the room, please?

Mr. Velde. Will the officer ask in the hall if Jack Lucas is present.

Mr. Kunzig. Mr. Chairman, I respectfully request that this be postponed until tomorrow.

Mr. Velde. Without objection, it will be postponed and the committee will stand in adjournment until 10:30 tomorrow morning.

(Whereupon at 4 p. m. the hearing was adjourned to Tuesday, June 29, 1954, at 10:30 a. m.)

[fol. 404] GOVERNMENT'S EXHIBIT No. 9

Union Calendar No. 440
83d Congress, 2d Session - - - House Report No. 1192

ANNUAL REPORT

OF THE

COMMITTEE ON UN-AMERICAN ACTIVITIES

FOR THE YEAR 1953

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[fol. 405] COMMUNIST METHODS OF INFILTRATION

(EDUCATION)

At the outset of the 83d Congress, in January 1953, the House Committee on Un-American Activities announced that it planned to hold hearings relating to *individual* members of the teaching profession, who are present or former members of the Communist Party and who had been so identified in sworn testimony given by previous witnesses. It was clearly set forth at that time, and studiously adhered to subsequently, that the investigation and the hearings would deal solely with *individuals* so named and would in no way be an investigation of education or educational institutions. Critics of the committee, and in some instances, other persons who had not taken the trouble to get the true facts of the committee's intention, charged that the committee sought to abridge a fundamental American principle —academic freedom.

The published testimony taken to this time relative to individual educators who had been named under oath as past or present members of the Communist Party will indicate to any honest and fair observer that there has been no effort or attempt on the part of the committee to examine into the text or content of the curriculum of any institution, nor is such an investigation contemplated. The committee has called as witnesses individuals who, either presently or in the past, have engaged in the teaching pro-
[fol. 406] fession and who should, through past experience with subversive organizations, be in a position to furnish the committee with valuable information. Fortunately, many of the persons called did assist the committee by retailing facts within their own knowledge concerning Communist efforts to infiltrate and dominate the teaching profession within the United States.

The field of education in the United States long ago became a prime target for the Communists. Perhaps no other area of American life offers so great an opportunity for the trained and dedicated Communist agent. As the opportunities for higher education for the youth of America have expanded, the responsibility and influence of the teacher

has become more and more important. From the day that a student commences his education, the teacher assumes a collateral responsibility with the parent for the proper training of the individual. It is regrettable that in many instances parents are inclined to place the major burden of responsibility on the teacher, thus relegating the home and parental influence to a place of secondary importance. Obviously, in such cases, the molding of a young mind becomes the total responsibility of the teacher and, in the selection of subject matter and by precept and example, the Communist teacher can and will distort the facts of American life into a hideous mockery of its true reality. That the Communists in the teaching profession have been so few is testimony to the fine work being performed by thousands of loyal and dedicated American citizens who have chosen the teaching profession as their life's work. That a relatively small number of American students have chosen communism in preference to the republican form of government is additional evidence of the basic and fundamental soundness of American education.

Through the course of the committee's hearings and investigations, there has been developed but little evidence that Communist teachers endeavored to indoctrinate the students with the Communist philosophy in the classroom. Testimony indicates that such efforts were in large part confined to extracurricular associations, both on and off the campus. In some instances, these associations took the form of Marxist study groups, from which it was but a short step to more serious gatherings of a semiclandestine nature and subsequently into the secret maze of the Communist Party itself.

The committee, in undertaking an investigation to determine the scope and measure of success attending Communist efforts to infiltrate the field of education, studied the activities of well-known Communist schools such the Jefferson School of Social Science in New York and the Abraham Lincoln School in Chicago, as well as the activities of Communist groups, such as the Labor Youth League, among the students.

The committee has in no way endeavored to dictate to any

university employing a person identified as a member of the Communist Party as to his retention or dismissal.

The first witness heard publicly by the committee was Prof. Robert Gorham Davis, presently an instructor at Smith College. Dr. Davis testified that he had been a member of the Communist Party from January 1937 until the fall of 1939. Of particular interest in the testimony of Dr. Davis was the reason why he had first joined the Communist Party and the reasons why he left it.

[fol. 407] Dr. Davis stated:

Well, I should say that ideologically there were 3 elements: First, the fact of the depression. To my generation it seemed intolerable that men should be unemployed; that food and cotton should be destroyed while people were hungry in a country as advanced technologically as the United States, and with such tremendous natural resources. We sought to understand the reason for the depression, for the waste of natural resources, and were led because of the spirit of the thirties to concern ourselves with the Marxist explanation.

One reason why Marxism appealed to my generation is because we were products of the twenties, educationally—a period of uncertainty and skepticism. Marxism seemed to offer a positive solution—an affirmative philosophy. We also had been taught that the First World War accomplished nothing despite the 4 years of suffering and slaughter. We were determined that another fruitless war of that kind should not occur.

Finally, we were very much aware of the growing menace of Hitlerism, and it seemed that Hitlerism could be stopped internationally, and a developing Fascist movement, or what might turn into a Fascist movement in this country, could be stopped only by organizing a very broad united front—and this the Communist Party purported to do. They did seem to be taking the lead against Hitlerism.

As you remember, this was the period of the movement for collective security in the League of Nations. This was also the period of the Spanish Civil War, when the democracies seemed to be fighting against the armed forces of Hitler and Mussolini in Spain.

All these influences converging made me feel before I went into the party that it was my idea to aline myself with this leadership.

I discovered in the 2 years which followed that I had made a mistake, but my break did not come finally until after the Hitler-Molotov pact, which initiated the Second World War.

I left then not only because of the shift of the line led me into a position which was politically and morally intolerable, but also because I had such experience of the intrigues and duplicity that are inseparable from Communist Party membership with the requirement that one critically defend the Soviet Union, that as a person of morality and sincerity I could remain in that position no longer.

I not only broke with the party, but increasingly in the years that have followed have I felt it necessary to fight the influence of the Communist Party in those areas where I could be most effective.

Dr. Davis also shed considerable light on the subservience of the Communist Party in the United States to the Soviet Union, when he stated:

The shift of policy after 1939 and the rapidity with which the Communist Party in this country fell in line with the Russian policy, even though they didn't understand it, made it quite clear that they were acting for the Soviet Union; that they were in a certain sense Soviet nationalists and not working for the broader interests of the American people.

One of the principal objectives of the Communist Party, during the period that Dr. Davis was a member, was the organization and control of the Teachers' Union. Dr. Davis said:

We worked very hard to build up the Teachers' Union in Harvard and to build up teachers' unions generally, and we did this with a comparatively clear conscience, because our objectives, our immediate objectives, were to improve teaching conditions, raise salaries, and so on; but also obviously we wished teachers to take the same position that we (the Communists) took on public questions.

Dr. Davis furnished an excellent object lesson on how the Communists successfully gain control of groups and

organizations in which they constitute a minority when he explained how the Communists were able to have their members chosen as delegates to national conventions of the Teachers' Union. He explained in this manner:

One reason why Communists were successful was because in these organizations all service was voluntary. The teachers were very busy; trips were expensive, and very fre- [fol. 408] quently those who offered to go were asked to go because no other persons were available, and if a member of the Communist Party offered to go, his offer was usually accepted, if he offered to go to the national convention.

Although the membership of Dr. Davis in the Communist Party had been comparatively brief and during a period some years ago, he made the observation that might be expected of a man of his educational background and experience when he responded to a question as to whether a Communist should be allowed to teach in American universities:

I do not think we should allow the language of liberalism and democracy to be used by those who would destroy liberalism and democracy. That is, I think the Communists necessarily in universities today are dishonest in what they say, whereas Aristotle and Plato were honest.

The committee also had the benefit of the testimony of Daniel J. Boorstin, presently an instructor at the University of Chicago. Mr. Boorstin testified that he had been a member of the Communist Party for a period of about 1 year, terminating his membership in September 1939. Prior to joining the Communist Party in the United States, Mr. Boorstin stated that he had been a member of a Marxist study group while a Rhodes scholar at Oxford, England. He explained that out of a group of approximately 70 American students in England at the time, about 6 of them were members of the same Marxist study group. It was, therefore, with a Marxist background that he joined the Communist Party while a part-time teacher and graduate student at Harvard University in 1938. Mr. Boorstin also furnished the committee with his reasons for joining the Communist Party, and the process through which he learned of the deception and distortion of the Communists' claims. He recalled:

There were a number of circumstances that as I can recall now led me into the group. One was that those were the days of the so-called United Front during which the Communist Party was taking the position of supporting all liberal and progressive groups. Their motto was "Communism Is 20th Century Americanism" at that time.

They had also succeeded in blurring the line between themselves and other groups. Also they were at that time taking a position against anti-Semitism and against the Nazis, and as a Jew that had a certain appeal to me, naturally.

Also during that year Granville Hicks was a counselor in American studies, and he was a well-known person who had written a book about American literature. His presence lent a certain amount of glamour to the group.

In addition to that there were some old friends of mine who had been interested in Marxism at Oxford, who were at Harvard at that time, and as friends of mine they added to the interest of the group.

It is hard to explain the thing any more clearly than that, sir. There were many different things.

Mr. Boorstin's awakening came in much the same fashion as did that of Mr. Davis:

It was a growing disgust with the way of thinking and the attitudes of people in the group. The most dramatic event which brought it out into the open was the Nazi-Soviet Pact, which revealed both the willingness of the Soviet Union to collaborate with nazism and the intellectual bankruptcy of the American Communists who switched their line around according to what the Daily Worker said.

As I recall, the day after the Nazi-Soviet Pact, or just about then, the Communists denied everything they had been saying for years.

Granville Hicks, referred to in the testimony of Mr. Boorstin, was also a witness before the committee and tes- [fol. 409] tified as to his membership in the Communist Party both before and after the time he was a counselor of American studies at Harvard University. Mr. Hicks was a prolific writer for Communist publications during the 1930's. He had been a member of the Communist Party for about 4 years and broke abruptly when the Nazi-Soviet

Pact was signed. Mr. Hicks' testimony again pointed up the fact that has been established in so much of the testimony of former Communist writers—the control exercised over them by the Communist Party.

One of the witnesses called early in the committee's hearings was Wendell H. Furry, a professor at Harvard University. Mr. Furry was called because the committee was aware that he possessed a wealth of information concerning Communist activities in the New England area. It was a disappointment to the committee that, rather than furnish this information, he chose to refuse to answer questions relating to his Communist Party membership on the grounds that to do so might incriminate him. Mr. Furry was offered a second opportunity to appear before the committee, upon his request, and on that occasion he modified his testimony to the extent of denying membership for the past 2 years. He persisted, however, in his refusal to assist the committee in its efforts to gain further information on the Communist conspiracy.

On February 27, 1953, the committee heard the testimony of Barrows Dunham, a professor at Temple University, in executive session. Mr. Dunham refused to answer even the most fundamental questions, such as the record of his educational background. The committee voted that the testimony of Mr. Dunham, such as it was, be released.

In the 15 years of the committee's existence, its members have been subjected to unprecedented abuse from some witnesses who have appeared. One of the most abusive and contemptuous to appear was Abraham Glasser.

Glasser became an employee of the United States Department of Justice in December 1935. The Federal Bureau of Investigation learned, through a Soviet espionage agent who had been arrested by Canadian authorities, that during a period in 1938-39 Glasser had furnished him with information from the files of the Justice Department. As a result of these findings Glasser was suspended from the Department of Justice in June 1941. A résumé of the information relating to Glasser's activities in behalf of the Soviet Government were set forth in a memorandum prepared by Alexander Holtzoff, who is presently a Federal judge in Washington, D. C. This memorandum, which was

prepared in July 1941, set forth the obvious reasons why Glasser should at least be dismissed with prejudice from the Justice Department. In the face of this memorandum, a board appointed to study Glasser's case found that there was not in their opinion sufficient cause for dismissal, although determining that he should not be retained in the service of the Justice Department. Glasser was requested to resign. He did submit his resignation, effective October 31, 1941, and immediately was employed by the Office of Price Administration. No notification was sent to the OPA or the Civil Service Commission by the Department of Justice as to the serious charges or the fact that Glasser's resignation had been requested.

It is little wonder then that, when he was hired by Rutgers University, in July 1947, the officials of that institution [fol. 410] were completely unaware of Glasser's background. When Glasser appeared before the committee in March 1953, he refused to affirm or deny the allegations that he had been engaged in espionage or whether he knew the Soviet agent when shown his picture.

As this investigation progressed, the committee discovered the existence of a Communist cell on the campus of Yale University, New Haven, Conn., during 1947. The committee's investigation disclosed that among the members of the cell were Byron Thorwell Darling, Paul Zilsel, Daniel Fine, Theodore S. Polumbaum, Arthur L. Levy, Harold T. Woerner, Jr., and others who have not yet been called before the committee. The above-named appeared and, with the exception of Zilsel, all refused to affirm or deny allegations that they had been members of a Communist cell at Yale, or were Communists at the present time. Zilsel denied present membership but refused to furnish information on Communist activities at Yale. The committee also heard further testimony from Byron Thorwell Darling in Columbus, Ohio, which will be treated in the section of the report dealing with the Columbus hearings.

The committee also learned of the existence of a Communist cell among members of the faculty at Massachusetts Institute of Technology during the late 1930's, and until at least the middle 1940's. The first witness called in relation

to this cell was William Ted Martin, chairman of the mathematics department at MIT. Mr. Martin testified that he had been a member of the Communist Party from January 1938 until the summer of 1946. He testified that during that period there was a Communist cell consisting of 6 or 7 professors at MIT, and that in turn this cell was part of a broader Communist section of teachers in the Boston and Cambridge area. Another member of this cell, who furnished the committee with valuable information concerning the Communist conspiracy, particularly in relation to the teaching profession, was Isadore Amdur, professor of physical chemistry at MIT. Mr. Amdur gave the committee his opinion as to why a scientist might be attracted to the Communist Party.

I believe that a relatively large number of scientists joined the Communist Party partly because their training and activity makes it natural for them to do so. A scientist, by nature, is a radical person. He is inclined to question everything, to revolt against that which has gone before if, in his opinion, it does not jibe with what he thinks the present facts are, and I believe quite sincerely but personally that scientists are more prone to go into an unpopular organization such as the Communist Party in an attempt to find out what it is all about, and it is my belief that the most radical of the natural scientists are probably the mathematicians. I might allow room for the philosophers; I don't know, but the mathematicians, I believe, would come first in that category. I believe the physicists are a close second and the chemists and biologists and so forth would bring up the rear.

Amdur stated that he had been a member of the Communist Party from 1938 until 1944 and after that was engaged in working on the Manhattan Engineer District. Even though the Manhattan project was one of the most vital and secretive ever undertaken by our Government, and resulted in the development of the atom bomb, Mr. Amdur was never questioned by Manhattan Engineer District authorities as to whether he had been a member of the Communist Party prior to or during his work on the project.

One of the principal criticisms raised in connection with the investigations and hearings by the House Committee on

[fol. 411] Un-American Activities is that universities are themselves capable of detecting which teachers are Communists. The fallacy of this criticism is exemplified by the facts relating to John Henry Reynolds. Reynolds, as were other witnesses, was identified under oath as a one-time member of the Communist Party prior to the time that he was served with a subpena by an investigator for the committee. When he was first contacted by the investigator, Reynolds arranged for an interview in the office of the dean of the University of Florida, and further arranged that the head of the department in which he was an instructor be present. In the presence of these university officials, Reynolds flatly denied that he had ever been a member of the Communist party. In the intervening period between that conference and his appearance before the committee, Reynolds was publicly identified by three witnesses as a one-time member of the Communist Party. When he did appear before the committee, Reynolds refused to affirm or deny membership in the Communist Party on the grounds that to do so might incriminate him.

Evidence on the record indicates that in no instance has a university or other educational institution knowingly employed the services of a member of the Communist Party.

Probably the most succinct statement relative to the committee's investigations and hearings in this field has come from the universities themselves. On March 24, 1953, the Association of American Universities adopted a statement entitled "The Rights and Responsibilities of Universities and Their Faculties." The committee believes that the statement in its entirety should be read by every American and, for that reason, it is reprinted as a portion of this report:

The Rights and Responsibilities of Universities and Their Faculties

(Adopted by the Association of American Universities, March 24, 1953)

I. Role of the University in American Life

For 300 years higher education has played a leading role in the advancement of American civilization. No country

in history so early perceived the importance of that role and none has derived such widespread benefits from it. Colleges moved westward with the frontier and carried with them the seeds of learning. When the university idea was transplanted from Europe, it spread across the Nation with extraordinary speed. Today our universities are the standard bearers of our whole system of education. They are the mainstays of the professions. They are the prime source of our competence in science and the arts. The names of their graduates crowd the honor rolls of two World Wars and of the Nation's peacetime affairs. By every test of war and peace they have proved themselves indispensable instruments of cultural progress and national welfare.

In the United States there is a greater degree of equality of opportunity in higher education than anywhere else in the world. A larger proportion of Americans study in universities and colleges than any other people. These universities have shown and continue to show greater responsiveness to the needs of our society than their European counterparts. They have equipped our people with the varied skills and sciences essential to the development of a pioneer country. They have imparted the shape and coherence of the American Nation to formless immigrant groups. American ideals have been strengthened, the great cultural tradition of the West has been broadened, and enriched by their teaching and example.

Modern knowledge of ourselves and of our universe has been nurtured in the universities. The scientific, technological, medical, and surgical advances of our time were born in them. They have supplied intellectual capital as essential to our society as financial capital is to our industrial enterprise. They have more than justified the faith of the public in our distinctive system of higher education. They have proved themselves dynamic forces of American progress.

[fol. 412] II. THE NATURE OF A UNIVERSITY

A university is the institutional embodiment of an urge for knowledge that is basic in human nature and as old as the human race. It is inherent in every individual. The search that it inspires is an individual affair. Men vary in

the intensity of their passion for the search for knowledge as well as in their competence to pursue it. History therefore presents us with a series of scholarly pioneers who advanced our knowledge from age to age and increased our ability to discover new knowledge. Great scholars and teachers drew students to them, and in the Middle Ages a few such groups organized themselves into the first universities.

The modern university which evolved from these is a unique type of organization. For many reasons it must differ from a corporation created for the purpose of producing a salable article for profit. Its internal structure, procedures, and discipline are properly quite different from those of business organizations. It is not so closely integrated and there is no such hierarchy of authority as is appropriate to a business concern; the permanent members of a university are essentially equals.

Like its medieval prototype, the modern American university is an association of individual scholars. Their effectiveness, both as scholars and as teachers, requires the capitalizing of their individual passion for knowledge and their individual competence to pursue it and communicate it to others. They are united in loyalty to the ideal of learning, to the moral code, to the country, and to its form of government. They represent diversified fields of knowledge, they express many points of view. Even within the same department of instruction there are not only specialists in various phases of the subject, but men with widely differing interests and outlooks.

Free enterprise is as essential to intellectual as to economic progress. A university must therefore be hospitable to an infinite variety of skills and viewpoints, relying upon open competition among them as the surest safeguard of truth. Its whole spirit requires investigation, criticism, and presentation of ideals in an atmosphere of freedom and mutual confidence. This is the real meaning of "academic" freedom. It is essential to the achievement of its ends that the faculty of a university be guaranteed this freedom by its governing board, and that the reasons for the guaranty be understood by the public. To enjoin uniformity of outlook upon a university faculty would put a stop to learning at the source.

For these reasons a university does not take an official position of its own either on disputed questions of scholarship or on political questions or matters of public policy. It refrains from so doing not only in its own but in the public interest, to capitalize the search for knowledge for the benefit of society, to give the individuals pursuing that search the freest possible scope and the greatest possible encouragement in their efforts to preserve the learning of the past and advance learning in the present. The scholar who pursues the search on these terms does so at maximum advantage to society. So does the student. To the scholar, lie open new discoveries in the whole field of knowledge, to his student the opportunity of sharing in those discoveries and at the same time developing his powers of rational thought, intelligent judgment, and an understanding use of acquired knowledge. Thus essential qualities of learning are combined with essential qualities of citizenship in a free society.

To fulfill their function the members of university faculties must continue to analyze, test, criticize, and reassess existing institutions and beliefs, approving when the evidence supports them and disapproving when the weight of evidence is on the other side. Such investigations cannot be confined to the physical world. The acknowledged fact that moral, social, and political progress have not kept pace with mastery of the physical world shows the need for more intensified research, fresh insights, vigorous criticism, and inventiveness. The scholar's mission requires the study and examination of unpopular ideas, of ideas considered abhorrent and even dangerous. For, just as in the case of deadly disease or the military potential of an enemy, it is only by intense study and research that the nature and extent of the danger can be understood and defenses against it perfected.

Timidity must not lead the scholar to stand silent when he ought to speak, particularly in the field of his competence. In matters of conscience and when he has truth to proclaim the scholar has no obligation to be silent in the face of popular disapproval. Some of the great passages in the [fol. 413] history of truth have involved the open challenge of popular prejudice in times of tension such as those in which we live.

What applies to research applies equally to teaching. So long as an instructor's observations are scholarly and germane to his subject, his freedom of expression in his classroom should not be curbed. The university student should be exposed to competing opinions and beliefs in every field, so that he may learn to weigh them and gain maturity of judgment. Honest and skillful exposition of such opinions and beliefs is the duty of every instructor; and it is equally his privilege to express his own critical opinion and the reasons for holding it. In teaching, as in research, he is limited by the requirements of citizenship, of professional competence and good taste. Having met those standards, he is entitled to all the protection the full resources of the university can provide.

Whatever criticism is occasioned by these practices, the universities are committed to them by their very nature. To curb them, in the hope of avoiding criticism, would mean distorting the true process of learning and depriving society of its benefits. It would invite the fate of the German and Italian universities under fascism and the Russian universities under communiism. It would deny our society one of its most fruitful sources of strength and welfare and represent a sinister change in our ideal of government.

We must recognize the fact that honest men hold differing opinions. This fundamental truth underlies the assertion and definition of individual rights and freedom in our Bill of Rights. How does it apply to universities? In the eyes of the law, the university scholar has no more and no less freedom than his fellow citizens outside a university. Nonetheless, because of the vital importance of the university to civilization, membership in its society of scholars enhances the prestige of persons admitted to its fellowship after probation and upon the basis of achievement in research and teaching. The university supplies a distinctive forum and, in so doing, strengthens the scholar's voice. When his opinions challenge existing orthodox points of view, his freedom may be more in need of defense than that of men in other professions. The guaranty of tenure to professors of mature and proven scholarship is one such defense. As in the case of judges, tenure protects the scholar against undue economic or political pressures and ensures the continuity of the scholarly process.

There is a line at which "freedom" or "privilege" begins to be qualified by legal "duty" and "obligation." The determination of the line is the function of the legislature and the courts. The ultimate interpretation and application of the first and fourteenth amendments are the function of the United States Supreme Court; but every public official is bound by his oath of office to respect and preserve the liberties guaranteed therein. These are not to be determined arbitrarily or by public outcry. The line thus drawn can be changed by legislative and judicial action; it has varied in the past because of prevailing anxieties as well as by reason of "clear and present" danger. Its location is subject to, and should receive, criticism both popular and judicial. However much the location of the line may be criticized, it cannot be disregarded with impunity. Any member of a university who crosses the duly established line is not excused by the fact that he believes the line ill drawn. When the speech, writing, or other actions of a member of a faculty exceed lawful limits, he is subject to the same penalties as other persons. In addition, he may lose his university status.

Historically the word "university" is a guaranty of standards. It implies endorsement not of its members' views but of their capability and integrity. Every scholar has an obligation to maintain this reputation. By ill-advised, though not illegal, public acts or utterances he may do serious harm to his profession, his university, to education, and to the general welfare. He bears a heavy responsibility to weigh the validity of his opinions and the manner in which they are expressed. His effectiveness, both as a scholar and teacher, is not reduced, but enhanced, if he has the humility and the wisdom to recognize the fallibility of his own judgment. He should remember that he is as much a layman as anyone else in all fields except those in which he has special competence. Others, both within and without the university, are as free to criticize his opinions as he is free to express them.

As in all acts of association, the professor accepts conventions which become morally binding. Above all, he owes his colleagues in the university complete candor and perfect integrity, precluding any kind of clandestine or con-

spiratorial activities. He owes equal candor to the public. If he is called upon to answer for his convictions it is his duty as a citizen to speak out. It is even more definitely his duty as a professor. Refusal to do so, on whatever legal grounds, cannot fail to reflect upon a profession that claims for itself the fullest freedom to speak and the maximum [fol. 414] protection of that freedom available in our society. In this respect, invocation of the fifth amendment places upon a professor a heavy burden of proof of his fitness to hold a teaching position and lays upon his university an obligation to reexamine his qualifications for membership in its society.

In all universities faculties exercise wide authority in internal affairs. The greater their autonomy, the greater their share of responsibility to the public. They must maintain the highest standards and exercise the utmost wisdom in appointments and promotions. They must accept their share of responsibility for the discipline of those who fall short in the discharge of their academic trust.

The universities owe their existence to legislative acts and public charters. A State university exists by constitutional and legislative acts, an endowed university enjoys its independence by franchise from the State and by custom. The State university is supported by public funds. The privately sustained university is benefited by tax exemptions. Such benefits are conferred upon the universities not as favors but in furtherance of the public interest. They carry with them public obligation of direct concern to the faculties of the universities as well as to the governing boards.

Legislative bodies from time to time may scrutinize these benefits and privileges. It is clearly the duty of universities and their members to cooperate in official inquiries directed to those ends. When the powers of legislative inquiry are abused, the remedy does not lie in noncooperation or defiance; it is to be sought through the normal channels of informed public opinion.

IV. THE PRESENT DANGER

We have set forth the nature and function of the university. We have outlined its rights and responsibilities and

those of its faculties. What are the implications of current anxiety over Russian communism and the subversive activities connected with it?

We condemn Russian communism as we condemn every form of totalitarianism. We share the profound concern of the American people at the existence of an international conspiracy whose goal is the destruction of our cherished institutions. The police state would be the death of our universities, as of our Government. Three of its principles in particular are abhorrent to us: the fomenting of world-wide revolution as a step to seizing power; the use of falsehood and deceit as normal means of persuasion; thought control—the dictation of doctrines which must be accepted and taught by all party members. Under these principles, no scholar could adequately disseminate knowledge or pursue investigations in the effort to make further progress toward truth.

Appointment to a university position and retention after appointment require not only professional competence, but involve the affirmative obligation of being diligent and loyal in citizenship. Above all, a scholar must have integrity and independence. This renders impossible adherence to such a regime as that of Russia and its satellites. No person who accepts or advocates such principles and methods has any place in a university. Since present membership in the Communist Party requires the acceptance of these principles and methods, such membership extinguishes the right to a university position. Moreover, if an instructor follows communistic practice by becoming a propagandist for one opinion, adopting a "party line," silencing criticism or impairing freedom of thought and expression in his classroom, he forfeits not only all university support but his right to membership in the university.

"Academic freedom" is not a shield for those who break the law. Universities must cooperate fully with law-enforcement officers whose duty requires them to prosecute those charged with offenses. Under a well-established American principle their innocence is to be assumed until they have been convicted, under due process, in a court of proper jurisdiction.

Unless a faculty member violates a law, however, his discipline or discharge is a university responsibility and

should not be assumed by political authority. Discipline on the basis of irresponsible accusations or suspicion can never be condoned. It is as damaging to the public welfare as it is to academic integrity. The university is competent to establish a tribunal to determine the facts and fairly judge the nature and degree of any trespass upon academic integrity, as well as to determine the penalty such trespass merits.

As the professor is entitled to no special privileges in law, so also he should be subject to no special discrimination. Universities are bound to deprecate special loyalty [fol. 415] tests which are applied to their faculties but to which others are not subjected. Such discrimination does harm to the individual and even greater harm to his university and the whole cause of education by destroying faith in the ideals of university scholarship.

V. CONCLUSION

Finally, we assert that freedom of thought and speech is vital to the maintenance of the American system and is essential to the general welfare. Condemnation of communism and its protagonists is not to be interpreted as readiness to curb social, political, or economic investigation and research. To insist upon conformity to current beliefs and practices would do infinite harm to the principle of freedom, which is the greatest, the central, American doctrine. Fidelity to that principle has made it possible for the universities of America to confer great benefits upon our society and our country. Adherence to that principle is the only guaranty that the Nation may continue to enjoy those benefits.

The committee recognizes the area of its jurisdiction and its limitations in this vital field, and will be so governed in the continuation of this investigation.

The results of the investigation and hearings, to date, serve to illustrate beyond question that Communist infiltration into the teaching profession has been limited, but the committee views with concern the fraction of Communist influence which has succeeded in achieving tenure.

[fol. 416] PAST RECOMMENDATIONS

In the past years the House Committee on Un-American Activities, after exhaustive study of its investigations and hearings, has, from time to time, made recommendations to the Congress for the enactment of legislation necessary to combat subversion.

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In order that the Congress and the American people might have an understanding of the recommendations that have been made by the committee in the past, there follows a complete list of all recommendations made by this committee since the first session of the Seventy-sixth Congress.

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[fol. 417] Legislative recommendations contained in Report No. 1, 77th Congress, 1st session, dated January 3, 1941:

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Withhold all Federal financial support from any educational institution which permits members of its faculty to advocate communism, fascism, or nazism as a substitute for our form of Government to the student body of these educational institutions. (This particular recommendation is not concurred in by Mr. Voorhis, not because of disagreement with the principle involved but on the ground that the administration of such an act is impossible without risking grave injustice being done to people seeking merely to explain the principles involved in totalitarian philosophy.)

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[fol. 418] SUBSEQUENT ACTION TAKEN BY CONGRESS OR EXECUTIVE AGENCIES ON PAST RECOMMENDATIONS

RECOMMENDATIONS CONTAINED IN ANNUAL REPORT OF COMMITTEE, 77TH CONGRESS, 1ST SESSION, DATED JANUARY 3, 1941

* * * * * * * *

Federal aid to educational institutions

4. *Committee recommendation.*—Withhold all Federal financial support from any educational institution which

[fol. 419] permits members of its faculty to advocate communism, fascism, or nazism as a substitute for our form of government to the student body of these educational institutions (January 3, 1941).

Action.—Section 228 of the *Veterans' Readjustment Assistance Act of 1952* (66 Stat. 667) prohibits the payment of an education and training allowance to any eligible veteran who enrolls for any course in an educational institution which is listed by the Attorney General as totalitarian, Fascist, Communist, or subversive. For text of this section; see appendix, page 181.

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[fol. 420] GOVERNMENT'S EXHIBIT No. 10

Union Calendar No. 19
84th Congress, 1st Session House Report No. 57

COMMITTEE ON UN-AMERICAN ACTIVITIES

ANNUAL REPORT FOR THE YEAR 1954

[Rubber Stamp—Filed Apr 27 1956 Harry M. Hull, Clerk]

JANUARY 26, 1955

(Original Release Date)

FEBRUARY 16, 1955.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Prepared and released by the
Committee on Un-American Activities, U. S. House of Representatives Washington, D. C.

[fol. 421] FOREWORD

[fol. 422] During 1954 the House of Representatives implemented by legislation a number of past recommendations of the Committee on Un-American Activities. The

committee in its annual report for the year 1953 detailed the past recommendations made by this committee and the Special Committee on Un-American Activities. It is worthy of note that at the commencement of 1954 all but 8 of the committee's 47 recommendations had been favorably acted upon by Congress or the executive branch.

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[fol. 423] MICHIGAN

The committee's hearings in Michigan during 1954 were held in Detroit, Lansing, and Flint; 12 of the subpenaed witnesses not heard during May were called to give testimony in Washington, D. C., in November. In addition to this, the committee during the past year, heard testimony from Merton Sumner, who was a member of the Communist Party during his period of residence in Grand Rapids, Mich., and from Francis X. Crowley, who was a member of the Communist Party while a student at the University of Michigan at Ann Arbor.

These hearings could be properly considered as a continuation of the hearings which the Committee on Un-American Activities held in Detroit, Mich., in 1952. As a matter of fact, in 1952 the committee reported that during [fol. 424] its investigation the identity of over 600 individuals as Communist Party members was obtained.

The 1954 hearings were set up by the committee in order to demonstrate to the people of Michigan the fields of concentration of the Communist Party in the Michigan area, and the identity of those individuals responsible for its success. The concentration of the Communist Party as outlined by this report is not the figment of a dream by the committee but comes directly from the Communist Party itself. This concentration is set forth in a directive to all Communist groups, sections, commissions, and departments, which the committee obtained during its investigation. This directive, while intending to advertise the Communist Party as an organization interested in furthering the trade-union movement, falsifies its own advertisement by placing all emphasis on the need to repeal all laws used against the Communist Party and its mem-

bers, including the Smith Act, the non-Communist affidavit section of the Taft-Hartley law and the Walter-McCarran Immigration Act. Of secondary importance in the directive, but equally stressed, is what the Communists refer to as "the People's Peace" program. This program is set forth as a campaign against NATO, friendship with the Soviet Union, and the opening of trade channels with the "People's Democracies," China, and the Soviet Union.

The Communist Party, in its directive, sets forth that the accomplishment of its program can be achieved only through a successful concentration in the auto industry. It reminds Communist Party members that concentration in the auto industry is not the function only of those Communist employees within the industry but, rather, that it is the responsibility of all Communists.

In 1952, the committee saw signs and had partial evidence of the Communist Party moving its members from white-collar and professional positions into the auto industry from other geographical locations in the United States. The directive of the Communist Party on concentration in the auto industry gives a clue as to why, and this is the reason the committee devoted a portion of its investigation and hearings to the city of Flint. In the directive, the Communist Party called for a drastic improvement in the work among General Motors workers. The directive states:

* * * Flint is the key to moving the GM division of the UAW, the division which Reuther heads and therefore the key to striking a powerful blow against social democracy. Whatever develops in Flint has great influence on the entire UAW.

* * * Where party work was on a relatively higher level as in Ford, the anti-Reuther strength was greatest. In GM, our main national concentration sector, the progressives were weakest of all. * * * It's therefore clear that we need a drastic improvement in our work in auto, in the first place in our work in GM, without in any way curtailing our work in Ford which remains our main concentration point in Michigan's Wayne County.

To strengthen itself within General Motors, the Communist Party in 1949 issued instructions to its members to

drop employment in non-basic industries, if they were presently employed, and urged the Communist members in colleges to seek basic-industry employment, even though their educational training qualified them for a higher type of employment.

During the Flint hearings, members of the Communist Party, some with college degrees, were found employed on [fol. 425] General Motors assembly lines. Not only were they employed, but the committee found that many of the Communists subpenaed before it went so far as to cover up their college education or degrees and resorted to the manufacturing of previous employment.

One witness, Marvin M. Engel, on his application for employment with the Chevrolet Motor Division of General Motors, claimed no college education when, as a matter of fact, he had received a social-science degree from the City College of New York. As previous employment, he listed the Universal Fence Co. of Detroit as being his employer for some 30 months. Sidney Linn, signing as an officer of the Universal Fence Co., confirmed Engel's 30-month employment with his concern. Yet, the truth of the matter was that Engel had never been employed by the Universal Fence Co., according to his own sworn testimony before the committee. Whether there is a bearing, the committee has no proof, but sworn testimony before the committee identified both Engel and Linn as members of the Communist Party in Michigan.

Other illustrations similar to that of Engel were reproduced throughout the Michigan hearings. The committee is of the opinion that these young Communists were directed into Michigan for the purpose of fulfilling the Communist dream, namely the need for "a drastic improvement in our [Communist Party] work in auto."

Communist Party colonizers, similar to the 25 exposed in Flint and other Michigan hearings, were the main target of the committee's 1954 investigation. Lack of adequate investigative personnel made it impossible to expose fully the infiltration in Michigan. Left in a pending stage were partial identities of some 75 other members of the Communist Party sent into the Michigan area for the purpose of building up the Communist Party's concentration within

the auto industry. The committee regrets that it was unable to complete its investigation in this field, but, at the same time, it feels that, if industry and labor would concern themselves more with the infiltration into their midst of potential Communist saboteurs, they could be removed from the auto industry without need of congressional investigation.

The Communist Party directive, in outlining the role to be played by the entire membership of the Communist Party in its concentration in auto, set forth the need to organize for peace (Soviet-proposed), for activities in political subdivisions surrounding Detroit, and for propagandizing among auto workers' wives and children with instruments such as the Michigan Worker and other Communist publications.

The bulk of the witnesses heard in Detroit, Mich., and later in Washington, D. C., were called to ascertain and expose the activities of the Communist Party in these broad fields. Joseph Chrin, who was shown by sworn testimony to have been a member of the Communist Party, was the leader of the Down River Citizens Committee. The Down River Citizens Committee operated in the communities heavily populated by Ford workers. It advertised as a political organization interested in the betterment of the Down River community. In fact and in practice, as set forth by sworn testimony, the Down River Citizens Committee was solely a vehicle of the Communist Party. Its program, while supporting many worthy issues and candidates for public office, was nevertheless geared to fulfill the objectives of the Communist Party. Harold Robertson, who was identified as a member of the Commu-
[fol. 426] nist Party living in Inkster, Mich., was found to have been a candidate for political office in his community and also a political appointee to the school board.

During the committee's investigation, it uncovered members of the Communist Party holding influential positions in the school systems of Detroit and other communities. Most of the teachers subpenaed before the committee refused to answer questions with respect to their membership in the Communist Party, on the ground that to do so would tend to incriminate them. Most of the teachers

called have been suspended or permanently removed from their positions. The Committee on Un-American Activities approves of this action because the committee has found that the delivery of a student into the tutelage of a member of the Communist Party has been responsible for the destruction of thousands of American homes. It is horrible enough to lose 13 Americans to Red China as a result of a war, especially when the war was not of America's choosing. It is far more horrible to lose one American to the Communist conspiracy through a teacher in a free educational institution of America.

As a result of the hearings held in Michigan in 1952 and again in 1954, the Committee on Un-American Activities calls upon the American labor movement, in addition to its ever-increased vigilance toward communism, to amend its constitutions where necessary in order to deny membership to a member of the Communist Party or any other group which dedicates itself to the destruction of America's way of life. It is certainly not within the best interests of the security of the United States, nor of the interest of the unions, to permit a member of the Communist Party or any other totalitarian party to work 8 hours a day in an American industry with the protection of a union contract and, at the same time, supply him with a captive audience of thousands through which he can preach his program of destruction. It is said that the worker is far too smart to be suckered into accepting the Communist harangue. It is admitted that the American worker, through education on the evils of communism and other totalitarianisms by both his union and his employer, has more knowledge on the subject today than at any time during his life. Nevertheless, the Communist Party is receiving new recruits daily from the ranks of labor, admittedly not so many as in the past. It is difficult to believe, however, that this recruitment would be as great if Communist Party organizers and advocates were removed from the captive audience which union and industry place around them in the shop.

The testimony of the following witnesses added much to the information of the committee regarding the scope of Communist activities in the State of Michigan:

Baldwin, Bereniece	May 7, 1954.
Churchill, Beatrice	May 12, 1954.
Daly, Francis Martin, Jr.	Apr. 30, 1954.
Donnelly, Herbert H	May 14, 1954.
Johnson, William H. (Bill)	May 4, 1954.
Klein, Lawrence R	Apr. 30, 1954.
Mikkelsen, Harold M	May 4, 1954.
Santwire, Milton Joseph	Apr. 28, 1954.
Schemanske, Stephen J	Apr. 29, 1954.
Stepanchenko, Frank	Apr. 29, 1954.
Witness X	Apr. 30, 1954.

* * * * * * *

[fol. 428] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Criminal No. 1154-54

Charge Violation of Section 192, Title 2, U. S. Code.

UNITED STATES

v.

LLOYD BARENBLATT, Defendant.

TRIAL CERTIFICATE—Filed March 15, 1956

On this 15th day of March, 1956, came again the parties aforesaid, in manner as aforesaid, and the same jury as aforesaid in this cause, the hearing of which was respited yesterday; whereupon, with the consent of the United States Attorney and the approval of the Court, the defendant waives trial by jury; and thereupon the waiver of trial by jury is filed in open Court; whereupon the jury and the two alternate jurors are discharged from further consideration in this case; and thereupon trial by Court proceeds.

It is adjudged by the Court that the defendant is guilty as indicted. The case is not referred to the Probation Officer of the Court.

The defendant is sentenced to imprisonment for a period of Six (6) months and to pay a fine of Two Hundred and Fifty ($250.00) Dollars. The defendant is permitted to remain on bond pending appeal.

By direction of

Alexander Holtzoff, Presiding Judge, Criminal Court #3.

Harry M. Hull, Clerk, by /s/ Daniel J. Mencobom, Deputy Clerk.

Present: United States Attorney, by William Hitz, Assistant United States Attorney.

Thomas O'Neal, Official Reporter.

[fol. 429] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Criminal No. 1154-54

UNITED STATES OF AMERICA,

v.

LLOYD BARENBLATT.

JUDGMENT AND COMMITMENT—March 15, 1956

On this 15th day of March, 1956 came the attorney for the government and the defendant appeared in person and[1]

[1] Insert "by counsel" or "without counsel; the court advised the defendant of his right to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel."

by counsel, Messrs. Joseph A. Fanelli and Philip Wittenberg.

It Is Adjudged that the defendant has been convicted upon his plea of not guilty and a finding of guilty of the offense of Violation of Section 192, Title 2, U. S. Code as charged[2] and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Six (6) months and to pay a fine of Two Hundred and Fifty ($250.00) Dollars and that the defendant be further imprisoned until payment of the fine or until otherwise discharged as provided by law.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ Alexander Holtzoff, United States District Judge.

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[2] Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be.

[3] Insert "in count(s) number ," if required.

[4] Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law.

[fol. 430] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Title omitted]

NOTICE OF APPEAL—Filed March 23, 1956

Name and address of appellant Lloyd Barenblatt, New York, New York.

Name and address of appellant's attorney Joseph A. Fanelli, 1701 K Street, N.W., Washington 6, D. C.

Offense Contempt of Congress.

Concise statement of judgment or order, giving date, and any sentence 3/15/56 Judge Holtzoff sentenced appellant to six months imprisonment and a fine of $250.

Name of institution where now confined, if not on bail On bail.

I, the above-named appellant, hereby appeal to the United States Court of Appeals for the District of Columbia Circuit from the above-stated judgment.

Date 3/16/56.

/s/ Lloyd Barenblatt, Appellant.

/s/ Joseph A. Fanelli, Attorney for Appellant.

[fol. 431] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 432] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13,327

LLOYD BARENBLATT, Appellant,

v.

UNITED STATES OF AMERICA, Appellee.

Appeal from the United States District Court
for the District of Columbia

Mr. David Scribner, of the bar of the Court of Appeals of New York, *pro hac vice*, by special leave of court, with whom Mr. David Rein was on the the (sic) brief, for appellant.

Mr. John D. Lane, Assistant United States Attorney, with whom Messrs. Oliver Gasch, United States Attorney, Lewis Carroll and William Hitz, Assistant United States Attorneys, were on the brief, for appellee.

OPINION—Decided January 3, 1957

Before Washington, Bastian and Burger, Circuit Judges.

BASTIAN, Circuit Judge: Appellant was tried, convicted and sentenced under 2 U.S.C. § 192 (1952)[1] (contempt of

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[1] "*Refusal of witness to testify.* Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than $1,000 nor less than $100 and imprisonment in a common jail for not less than one month nor more than twelve months."

[fol. 433] Congress). From this conviction the present appeal was taken.

The factual situation disclosed by the record is as follows: On June 28, 1954, one Francis X. T. Crowley testified before a subcommittee of the Committee on Un-American Activities of the House of Representatives concerning his past membership and activities in the Communist Party, and identified the appellant as a member of the Haldane Club of the Communist Party while appellant was a graduate student and instructor at the University of Michigan. On that same day, appellant appeared before the subcommittee in response to its subpoena, at which time, after certain preliminary inquiries, appellant was asked the questions which he refused to answer. These refusals are the basis for his indictment, which charges that appellant "unlawfully refused to answer" the following questions:

"Count One: Are you now a member of the Communist Party?

"Count Two: Have you ever been a member of the Communist Party?

"Count Three: Now, you have said that you knew Francis Crowley. Did you know Francis Crowley as a member of the Communist Party?

"Count Four: Were you ever a member of the Haldane Club of the Communist Party while at the University of Michigan?

"Count Five: Were you a member while a student of the University of Michigan Council of Arts, Sciences, and Professions?"

[fol. 434] The indictment charges that these questions "were pertinent to the question then under inquiry," and that the subcommittee was conducting hearings at the time pursuant to its enabling resolution.[2] This law establishes

[2] Public Law 601, Sec. 121, 79th Cong., 2d Sess. (60 Stat. 828), and H.R.Res. 5, 83d Cong., 1st Sess. (1953).

the Committee on Un-American Activities and vests in it, and its duly constituted subcommittees, the duty:

> "... to make from time to time investigations of (i) the extent, character, and objects of un-American propaganda activities in the United States, (ii) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (iii) all other questions in relation thereto that would aid Congress in any necessary remedial legislation."

At the time of appellant's appearance, the subcommittee was conducting an inquiry into communism in the field of education, and the record reflects that appellant had knowledge of this.

I

The first ground urged for reversal is that the indictment is fatally defective in that it does not plead a deliberate and intentional or knowing refusal to answer. This specific question was ruled on by this court contrary to appellant's contention in *United States* v. *Deutch*, —— U.S.App.D.C. ——, 235 F.2d 853 (1956).

The argument is also advanced that the indictment is defective in that it does not describe the matter into which the subcommittee was inquiring at the time appellant appeared before it. The indictment alleges an unlawful refusal to answer "questions which were pertinent to the question then under inquiry," which inquiry was made pursuant to the subcommittee's enabling resolution. [fol. 435] Thus, it appears that the indictment stated all the elements of the offense charged and served notice on appellant as to what conduct on his part constituted the alleged offense. This satisfies the requirements of Fed. R. Crim. P. 7(c). See *United States* v. *Josephson*, 165 F.2d 82 (2d Cir. 1947), *cert. denied*, 333 U.S. 838 (1948).

It is also contended that the indictment is fatally defective in that it alleges a refusal to answer questions before a subcommittee of a committee, and that Congress

did not intend to make it a crime to refuse to answer questions of a subcommittee. Appellant urges that Congress was fearful of having penal sanctions imposed upon those who refused to answer questions propounded by subcommittees, as Congress considered subcommittees more subject to partisanship and more likely to abuse their powers than full committees. We disagree. Nothing has been shown which reflects that Congress has indicated such belief. We can only construe the statute in the light of the obvious purpose for its enactment. That purpose was to discourage the impairment of the vital investigative function of Congress. *Fields* v. *United States*, 82 U.S.App.D.C. 354, 164 F.2d 97, *cert. denied*, 332 U.S. 851 (1948). The function Congress sought to protect is as often committed to subcommittees as it is to full committees of Congress, as indeed it must be.

Construing the statute in a manner consistent with its obvious purpose [*Vermilya-Brown Co.* v. *Connell*, 335 U.S. 377 (1948), *United States* v. *Brown*, 333 U.S. 18 (1948), *The Emily and The Caroline*, 22 U.S. (9 Wheat.) 381 (1824)] we hold that Congress intended the word "committee" in its generic sense, which would include subcommittees.

II

Next, appellant contends that the subcommittee failed to consider and overrule his objections to the questions asked him, and that, therefore, there could be no proof beyond a reasonable doubt of a criminal intent to refuse [fol. 436] to answer. He insists that to meet this burden the subcommittee must be shown to have considered his objections, to have overruled them, and then to have directed him to answer. In support, appellant cites *Quinn* v. *United States*, 349 U.S. 155 (1950), *Emspak* v. *United States*, 349 U.S. 190 (1950), and *Bart* v. *United States*, 349 U.S. 219 (1950).

The record of the subcommittee hearing for the day appellant appeared was admitted in evidence at the trial.[3]

[3] Hearings Before the House Committee on Un-American Activities on Communist Methods of Infiltration (Education—Part 9), 83d Cong., 2d Sess. (1954), Gov. Exhibit No. 8.

From that record, we are convinced that appellant did communicate his objections to the subcommittee and that he was clearly directed to answer each of the questions. Furthermore, it is entirely clear that appellant had ample opportunity to state any additional objections he may have had.

Appellant came before the subcommittee with an eleven-page written statement, which he characterized as his objections to the questions asked of him. Whenever he was asked a question which he refused to answer, appellant asked permission, or attempted without permission, to read the prepared statement. The Chairman ruled that it was a preliminary statement, which, under the rules of the subcommittee (with which appellant admitted familiarity) had to be filed a reasonable time in advance of appearance before the subcommittee.[4] At one point [fol. 437] appellant asserted:

> "I am objecting on these grounds, and I will not answer any questions about which the list of objections is read: my political beliefs; my religious beliefs; any other personal and private affairs; my associational activities.
>
> "I will not answer any of those questions on the grounds of my objections in this statement which I again respectfully request that I be able to read at this point to get into the record the objections so that we can proceed from that point."

This assertion by appellant was made before he was directed to answer the question set forth in the first count of the indictment.

Prior to making the objection referred to above, appellant had stated, in response to a question:

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[4] The statement can best be described as a lengthy legal brief attacking the jurisdiction of the committee to ask appellant any questions or to conduct any inquiry at all, based on the First, Ninth and Tenth Amendments, the prohibition against bills of attainder, and the doctrine of separation of powers. This brief cited more than twenty Supreme Court decisions, some of which do not concern the congressional power of investigation; and, in several instances, dissenting opinions were cited.

"Sir, I would like here to state my objections to the power and jurisdiction of this committee to inquire into my political beliefs, my religious beliefs, and any other personal and private affairs . . ."

The Chairman, as stated, had regarded the written statement as a preliminary one and had ruled that it would be taken under advisement as to whether or not it might be inserted into the record. Faced with continued refusal to answer the questions and appellant's repeated attempts to read the lengthy statement, the Chairman waived compliance with the rules of the subcommittee and accepted the statement into the record. Thereafter, when appellant refused to answer a question, he referred to the statement, as the subcommittee suggested that he do, as the basis of his refusal. The record reflects that one member of the subcommittee had read the statement but it does not show that the other members had done so. It is this upon which appellant relies when he argues that the subcommittee failed to consider his objections. With that position we cannot agree.

First, appellant did communicate to the subcommittee the general basis of the objections contained in his written statement. [fol. 438] Secondly, one member of the subcommittee, shown by the record to have read the statement, indicated his belief that the statement contained no valid grounds for refusal to answer; and, in admitting the statement into the record, the Chairman indicated that he was relying on that member.

We cannot, within the limited power of a court to review the procedures of a congressional committee, insist that such a committee interrupt its proceedings for detailed examination of a lengthy attack on its power to ask a question or to make any inquiry at all.[5] Certainly, the subcommittee had the right to insist that objections be cast in a reasonable form.

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[5] *Cf. Eisler* v. *United States*, 83 U.S.App.D.C. 315, 170 F.2d 273 (1948), *cert. dismissed*, 338 U.S. 883 (1949); *Barsky* v. *United States*, 83 U.S.App.D.C. 127, 167 F.2d 241 (1948), *cert. denied*, 334 U.S. 843.

Thirdly, to the extent that appellant had an objection which was not actually communicated to the subcommittee, he has no one to blame but himself. The record does not disclose that the subcommittee denied appellant a right to object to questions or that it was in any way abusive in its treatment of him. On the contrary, the subcommittee demonstrated not only considerable patience but active interest in determining what appellant's objections were. This was true even to the extent that appellant was asked several times if the grounds for his objections encompassed the Fifth Amendment privilege against self-incrimination, which he stated they did not.

Briefly stated, our conclusions are: that appellant actually apprised the subcommittee of his objections; that the subcommittee found them unacceptable and directed appellant to answer; that the courts cannot require a committee to make a detailed study of what may be fairly described as a lengthy legal brief before it directs a witness to answer; that appellant had numerous opportunities to make known any additional objections he may [fol. 439] have had but that he instead insisted upon reading his eleven-page statement; that that statement was read by one member of the subcommittee and found unpersuasive; and that the Chairman, relying on this member's knowledge of the statement, and its purport as communicated by the witness, directed an answer to each question. Therefore, we must hold that appellant's refusals to answer were at his own risk.

Quinn v. *United States, supra,* is not inconsistent with our view; we read that case as buttressing our conclusions. It concerned a witness who, instead of stating the grounds of his objections to questions of a congressional committee, represented his objections as being the same as those interposed by a previous witness, which objections had been vague and ambiguous. The Supreme Court held that, though Quinn had only vaguely asserted an objection based on the Fifth Amendment, the committee should have overruled his objection and specifically directed him to answer, before he could be convicted for contempt of Congress. It is noteworthy that the Supreme Court stated:

> "But the fact that a witness expresses his intention [to object on grounds of the Fifth Amendment] in vague terms is immaterial so long as the claim is sufficiently definite to apprise the committee of his intention. As every one agrees, no ritualistic formula is necessary in order to invoke the privilege." 349 U.S. at 164.

Consistent with *Quinn*, we conclude that appellant did apprise the subcommittee of his objections based on the First Amendment. Certainly, there is no doubt here that the subcommittee, when it directed appellant to answer each question, knew that appellant objected. It knew the general bases of the objections and rejected them. It gave him an opportunity to make any objections not communicated. It then directed him to answer each question set forth in the indictment.

[fol. 440] III

Appellant next contends that the primary purpose of the subcommittee's inquiry was to "expose" his beliefs and associations and that, therefore, the subcommittee exceeded the bounds of its investigative power. There can be no doubt that Congress has the power of inquiry and investigation when the inquiry or investigation is upon a subject concerning which Congress may legislate. The very resolution establishing the committee indicates that the subject under inquiry was one concerning which Congress could legislate. The fact that such an inquiry or investigation may reveal or "expose" some facts embarrassing to some one is incidental and without effect upon the validity of the inquiry.

Evidence was presented at the trial to show that the House Committee on Un-American Activities had been engaged in a continuing investigation into communist methods of infiltration and that one aspect of this investigation dealt with the field of education.[6] The trial court found that it was as a part of this larger and continuing study that appellant was called to testify.

[6] Annual Report of the Committee on Un-American Activities for the Year 1953, H.R.Rep. No. 1192, 83d Cong., 2d Sess. (1954).

The committee Chairman opened the first hearing on the subject of communist infiltration into the field of education on February 25, 1953, by stating the nature and purpose of the inquiry.[7]

Appellant urges that a statement in the Annual Report of the Committee to the effect that hearings were set up to demonstrate to the people of Michigan the infiltration into the field of education in Michigan "and the identity of those individuals responsible for its success . . ." shows that "exposure," not legislation, was the point and [fol. 441] purpose of the hearings. This statement, in context, is part of an extended discussion of the whole activity of this committee and cannot be regarded as a statement of the sole or primary objective and, however it may conflict with the broader objectives, does not justify reversal of appellant's conviction. Courts must presume congressional investigations to have valid legislative purposes. *Townsend* v. *United States,* 95 F.2d, 352, *cert. denied,* 303 U.S. 664 (1938). Since the statement relied on does not negate the presence of other, and we think legitimate, purposes of the inquiry, the presumption of valid purposes is still operative and unrebutted. A reading of the full report indicates that the primary purposes of the inquiry were in aid of legislative processes.

Examination of the report shows that legislative recommendations were made by the committee " . . . based upon investigations and hearings, in the year, 1954." It is unnecessary for present purposes to comment on those recommendations except to say that they called for significant legislation, and illustrate that the committee did in fact recommend legislation based upon investigations and hearings in 1954, perhaps including the very hearing at which appellant testified. Apparently "exposure," if a purpose of the hearing in question, was not the primary purpose.

The subcommittee was investigating communist infiltration in the field of education, and did so pursuant to its duty to investigate the extent, character, and objects of un-American propaganda activities in the United States,

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[7] For the statement of the Chairman see the appendix hereto.

and all other questions related thereto that would aid Congress in its legislative function. Taking this into consideration, together with the statement of the Chairman at the time the inquiry was inaugurated in February 1953, as well as the statement of the committee counsel on the morning appellant appeared to testify,[8] we conclude that [fol. 442] the subcommittee's dominant purpose in examining appellant was to acquire information which it regarded as useful in formulating legislative recommendations. This is a more valid appraisal than would result from concentrating on one isolated statement in the Annual Report. So long as competent evidence establishes a substantial legislative purpose in calling a witness before a congressional committee, and in its examination of him, we will not balance this purpose against other motivations. Once it is proven that the committee felt induced to call a witness in order to acquire information in aid of legislative processes, we think our limited function is exhausted.

We are next asked to decide whether Congress possesses the power to investigate citizens who are engaged in the educational systems of the country. Appellant maintains that Congress cannot do this because the field of education has been reserved to the states, and that, under the Tenth Amendment, Congress has no authority to legislate in that sphere.

We must ascertain specifically the subject under inquiry at the time appellant appeared as a witness before the subcommittee. The official report of the Committee on Un-American Activities, which contains the testimony of appellant before the subcommittee, is entitled "Communist Methods of Infiltration (Education—Part 9)." This report indicates that, on the day appellant was heard by the subcommittee, the Chairman asked the committee counsel to state the purposes and reasons for the hearing. Counsel stated, among other things, that Crowley, a for-

[8] Communist Methods of Infiltration (Education—Part 9), note 3 *supra*, at 5754: "The field covered will be in the main communism in education and the experiences and background in the party by Francis X. T. Crowley. It will deal with activities in Michigan, Boston, and in some small degree, New York. Without further ado, Mr. Chairman, if I have your permission I will call the witness."

merly recalcitrant witness, had volunteered to come before the subcommittee and that "[t]he field covered will be [fol. 443] in the main communism in education and the experiences and background in the party by Francis X. T. Crowley." The same day that the subcommittee heard Crowley, it examined appellant. Thus, we see that the title given the inquiry, "Communist Methods of Infiltration (Education—Part 9)," was consistent with the announced subject of the inquiry at the time appellant appeared. Looking further, the nature, purpose, and hope of the committee, when it began this general, continuing inquiry in February 1953, can be determined by examining Government Exhibit No. 7.[9] We take these statements of the Chairman as conclusive of the purpose of the inquiry pursuant to which appellant was called as a witness.

The inevitable result is that the purpose and nature of the inquiry was to determine communist methods of infiltration in the field of education. There is no indication of a congressional desire or attempt to examine curricula, content of text books, administration of schools, or criteria for employing and discharging teachers. Indeed, the committee's official report on this investigation negatives any such interpretation of the intent of Congress. There is nothing to suggest that education, as such, was any more involved here than were labor unions and the motion picture industry in earlier inquiries by this same congressional committee. Convictions of witnesses called pursuant to both of these latter investigations have been affirmed in the courts.[10]

While it is true, as appellant points out, that Congress has broader powers to enact legislation in the field of labor than it does in the field of education, it is not true that persons who incidentally happen to be teachers have greater immunity from inquiry into their activities than [fol. 444] do labor leaders and screen writers, when those activities relate to matters which are a legitimate concern

[9] See appendix.

[10] See, *e.g.*, *Flaxer* v. *United States*, 235 F.2d 821 (D.C.Cir. 1956); *Lawson* v. *United States*, 85 U.S.App.D.C. 167, 176 F.2d 49 (D.C.Cir. 1949), *cert. denied*, 339 U.S. 972 (1950).

of the Congress. By virtue of their great profession, teachers owe a higher duty, morally at least, to their country and its citizenry; but their status as teachers does not confer upon them a right not to have their separate or collateral activities inquired into when the same activities by others may be.

Shortly before appellant appeared before the subcommittee, its parent body had recommended to the Congress, and Congress had enacted, the Veterans' Readjustment Assistance Act of 1952, 66 Stat. 667,[11] which provides that educational stipends shall not be paid to veterans in attendance at educational institutions listed by the Attorney General as totalitarian, fascist, communist or subversive. This is significant in that it demonstrates a valid legislative interest in the incidence of communist infiltration into educational institutions and the number, location and identity of communists in the schools, in order that Congress might be informed of a need to extend or repeal the Act.

American colleges and universities are holders of contracts with the Government to conduct a variety of research projects of far-reaching consequence to the national security. They are frequently petitioners for and recipients of substantial grants not directly related to national security but involving expenditure of tax revenues. Thus, there are various other valid reasons for a congressional committee to launch an investigation of the type being conducted when appellant appeared as a witness. Congress has the recognized authority to conduct inquiries to determine if projects crucial to national defense, and paid for from public funds, are being carried forward with dispatch and in a manner consonant with safeguarding those projects from those whom Congress might regard as subversive or potential enemies. Therefore, it [fol. 445] is important for Congress to know the methods, nature and extent of communist infiltration of colleges and universities which are or might become engaged in secret defense projects.

[11] 38 U.S.C. § 933.

IV

Appellant's final contention is that the resolution establishing the Committee on Un-American Activities and conferring on it jurisdiction to make investigations is, on its face, contrary to the First and Fifth Amendments to the Constitution of the United States. This very contention has been urged upon this and other courts and has been consistently rejected.[12]

It is urged that a committee of Congress has no constitutional authority to require an answer of a witness as to his political beliefs and associations. In *Quinn* v. *United States*, 349 U.S. at 160-161, the Supreme Court said:

> "There can be no doubt as to the power of Congress, by itself or through its committees, to investigate matters and conditions relating to contemplated legislation. This power, deeply rooted in American and English institutions, is indeed co-extensive with the power to legislate. Without the power to investigate—including of course the authority to compel testimony, either through its own processes or through judicial trial—Congress could be seriously handicapped in its efforts to exercise its constitutional function wisely and effectively.
>
> "But the power to investigate, broad as it may be, is also subject to recognized limitations. It cannot be used to inquire into private affairs *unrelated to a valid legislative purpose*. . . ." [Emphasis supplied.]

[fol. 146] From this, it appears that if there is a valid legislative purpose, then, as was held in *Barsky*,[13] Congress can inquire into "private affairs" and, of course, political views and associations. If Congress can legislate against

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[12] *Marshall* v. *United States*, 85 U.S.App.D.C. 184, 176 F.2d 473 (D.C.Cir. 1949), *cert. denied*, 339 U.S. 933 (1950); *Dennis* v. *United States*, 84 U.S.App.D.C. 31, 171 F.2d 986 (D.C.Cir. 1949), *aff'd*, 339 U.S. 162 (1950); *United States* v. *Josephson*, 165 F.2d 82 (2d Cir. 1947), *cert. denied*, 333 U.S. 838 (1948); and cases cited notes 5 and 10 *supra*.

[13] *Barsky* v. *United States*, note 3 *supra*.

a threat of communism which is reasonably apprehended, it can, consistently with the meaning of the Constitution and the language in the *Quinn* case quoted above, inquire of a witness whether or not he is a communist, subject to the constitutional limitations imposed by the privilege against self-incrimination.

We said in *Barsky*:

> "... We think that inquiry into threats to the existing form of government by extra-constitutional processes of change is a power of Congress under its prime obligation to protect for the people that machinery of which it is a part, and inquiry into the desirability vel non of other forms of government is a power of Congress under its mandate to initiate amendments if such become advisable.
>
> "...
>
> "If Congress has power to inquire into the subjects of Communism and the Communist Party, it has power to identify the individuals who believe in Communism and those who belong to the party. The nature and scope of the program and activities depend in large measure upon the character and number of their adherents. Personnel is part of the subject. ..." 167 F.2d at 246.

Appellant asks that we re-evaluate *Barsky* bearing in mind that the subcommittee record indicates that appellant's participation, if any, in communist groups was confined to the intellectual and ideological realm and was not conspiratorial in nature. We reaffirm *Barsky*, and see nothing which places appellant beyond the ruling therein.

If the Haldane Club of the Communist Party, to which appellant allegedly belonged, was in fact principally a Marx-[fol. 447] ist study group and, as believed by the subcommittee, an adjunct of the Communist Party, we cannot say that the identity of its members and the extent and nature of their participation were not matters of legitimate concern to the subcommittee under its enabling resolution. Whether the Communist Party embraces not only conspiratorial groups but intellectual discussion groups as well, the relationship between them, the group most preva-

lent, and the extent to which an individual might participate in the activities of each, whether such groups operate within or are connected with public educational institutions, place the questions asked appellant clearly within the pale of valid inquiry.

Though we, of course, agree that Congress does not have a general power to inquire into political beliefs and associations, it does have that power where the answer to the question posed can be and is regarded by Congress as having value in the exercise of legislative duty. Congress can legislate on the internal security dangers it has declared to have arisen from the activities of the Communist Party in this country. It can and it has.

Our view of the record convinces us that the indictment was in no respect defective; that appellant either communicated or could have communicated all his objections to questions asked him and that the committee indicated his objections were untenable; that, if the committee was motivated in part by a purpose of exposure in calling appellant as a witness, it was also properly motivated by a desire for information which it reasonably believed would be helpful to it in the discharge of its duty to make legislative recommendations; and that the subject matter under investigation was not beyond the scope of permissible congressional inquiry under the committee's enabling resolution, which resolution is within its constitutional powers.

The conclusion dictated is that the judgment appealed from is correct and is therefore

Affirmed.

[fol. 448] APPENDIX

Hearings Before the House Committee on Un-American Activities, Communist Methods of Infiltration (Education), 83d Cong., 1st Sess. (1953), pp. 1-3.

Opening Statement of the Chairman, February 25, 1953

"Mr. Davis [the first witness called], it is our understanding that you are a member of the teaching profession. In opening this hearing, it is well to make clear to

you and others just what the nature of this investigation is.

"From time to time, the committee has investigated Communists and Communist activities within the entertainment, newspaper, and labor fields, and also within the professions and the Government. In no instance has the work of the committee taken on the character of an investigation of entertainment organizations, newspapers, labor unions, the professions, or the Government, as such, and it is not now the purpose of this committee to investigate education or educational institutions, as such. The committee will follow its long-established policy of investigating Communists and Communist activities wherever it has substantial evidence of its existence.

"When investigating Communists and Communist activities within certain labor unions, the committee was met with the charge by alarmists and partisans within that field that the committee was a group of Fascists and the enemy of labor, and that the real purpose of the investigation was to destroy labor unions. Similar and equally unfounded charges have been made with regard to this hearing. In pursuing its work within the field of labor, the committee carefully refrained from taking any part in any internal disputes within labor or any disputes between employers and employees and confined its activities to the ascertainment and identification of leaders in the labor unions who were members of the Communist Party and [fol. 449] were using their influence to promote the objectives of the Communist Party within the field of labor, and to the character, extent, and objects of their Communist Party activities. The work of the committee in this respect has met with such growing success that many labor unions are now actively engaged in eliminating from positions of influence union officials known to be members of the Communist Party and engaged in Communist activities.

"The purpose of the committee in investigating Communists and Communist activities within the field of education is no greater and no less than its purpose in investigating Communists and Communist activities within the field of labor or any other field.

"The committee is charged by the Congress with the responsibility of investigating the extent, character, and objects of un-American propaganda activities in the United States, the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution and all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

"It has been fully established in testimony before congressional committees and before the courts of our land that the Communist Party of the United States is part of an international conspiracy which is being used as a tool or weapon by a foreign power to promote its own foreign policy and which has for its object the overthrow of the governments of all non-Communist countries, resorting to the use of force and violence, if necessary. This organization cannot live except by the promulgation and diffusion of subversive and un-American propaganda and in the view of this committee every person who remains a member of it is contributing to the ultimate accomplishment of its objectives. Communism and Communist ac- [fol. 450] tivities cannot be investigated in a vacuum. The investigation must, of necessity, relate to individuals and, therefore, this morning the committee is calling you as a person known by this committee to have been at one time a member of the Communist Party.

"The question is sometimes asked whether it is necessary to call as witnesses those who are no longer members of the Communist Party. It is quite obvious for a number of reasons that the answer should be 'Yes.' Such witnesses add immeasurably to the sum total of the knowledge of the character, extent, and objects of Communist activities. The testimony of former Communist Party members resulted virtually in immobilizing the Communist Party in Hollywood. These witnesses considered it their patriotic duty to answer under oath questions relating to their knowledge of Communist infiltration into the organizations of which they had been members, and to their knowledge of other Communist Party activities. Wit-

nesses from the Screen Writers' Guild, the directors' guilds, labor unions, the legal profession, the medical profession, and other groups have made a great contribution to the defense of their country by disclosing to this committee facts within their knowledge.

"Former Communist Party membership, in the view of the committee, should not be held against an individual whose testimony admitting former Communist Party membership has that character of trustworthiness which convinces one that he has completely and finally terminated his Communist Party membership and has been given in all good faith. It is of great aid in determining who remain in the Communist Party to ascertain who have left it.

"The committee was greatly concerned with the evidence developed in the Hollywood hearings with respect to the type of 'thought control' practiced by the Communist Party upon its members. Screen writers were told how and what they should write. The testimony of Budd Schulberg and [fol. 451] Edward Dmytryk demonstrate the point as clearly as laboratory experiments would prove a chemical reaction. The same influence was found to exist in the field of art and music. An objective study of this testimony will lead to the inescapable conclusion that it is the Communist Party which is the enemy of academic freedom.

"The committee is equally concerned with the opportunities that the Communist Party has to wield its influence upon members of the teaching profession and students through Communists who are members of the teaching profession. Therefore, *the objective of this investigation is to ascertain the character, extent and objects of Communist Party activities when such activities are carried on by members of the teaching profession who are subject to the directives and discipline of the Communist Party.*" [Emphasis supplied.]

[fol. 452] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13,327

Criminal 1154-54

LLOYD BARENBLATT, Appellant,

v.

UNITED STATES OF AMERICA, Appellee.

Appeal From the United States District Court for the District of Columbia.

Before: Washington, Bastian and Burger, Circuit Judges.

JUDGMENT—Dated: January 3, 1957

This Cause came on to be heard on the record from the United States District Court for the District of Columbia, and was argued by counsel.

On Consideration Whereof, It is ordered and adjudged by this Court that the judgment of the said District Court appealed from in this cause be, and the same is hereby, affirmed.

Per Circuit Judge Bastian.

[fol. 453] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 454] [File endorsement omitted]

SUPREME COURT OF THE UNITED STATES

No. 742, October Term, 1956

No. 13,327

LLOYD BARENBLATT, Petitioner,

v.

UNITED STATES OF AMERICA.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit.

This Cause came on to be heard on the transcript of the record from the United States Court of Appeals for the District of Columbia Circuit, and was duly submitted.

On Consideration Whereof, It is ordered and adjudged by this Court that the judgment of the said United States Court of Appeals, in this cause, be, and the same is hereby, vacated; and that this cause be, and the same is hereby, remanded to the United States Court of Appeals for the District of Columbia Circuit for consideration in light of Watkins v. United States, No. 261, October Term, 1956, decided June 17, 1957.

June 24, 1957

Mr. Justice Clark dissents for the reasons stated in his dissenting opinion in Watkins v. United States, supra.

Mr. Justice Burton took no part in the consideration or decision of this case.

A true copy, Attest: John T. Fey, Clerk of the Supreme Court of the United States, by R. J. Blanchard, Deputy.

July 23, 1957.

[fol. 455] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13,327

LLOYD BARENBLATT, Appellant,

v.

UNITED STATES OF AMERICA, Appellee.

On reargument of appeal from the United States District Court for the District of Columbia pursuant to remand by the Supreme Court of the United States.

Mr. David Scribner, of the bar of the Court of Appeals of New York, *pro hac vice*, by special leave of Court, with whom *Mr. David Rein* was on the brief, for appellant.

Mr. William Hitz, Assistant United States Attorney, with whom *Messrs. Oliver Gasch*, United States Attorney, *Lewis Carroll, John D. Lane* and *Harold D. Rhynedance, Jr.*, Assistant United States Attorneys, were on the brief, for appellee.

Before EDGERTON, Chief Judge, and PRETTYMAN, WILBUR K. MILLER, BAZELON, FAHY, WASHINGTON, DANAHER, BASTIAN and BURGER, Circuit Judges.

OPINION—Decided January 16, 1958

BASTIAN, *Circuit Judge*: On January 3, 1957, this court affirmed the conviction of Barenblatt on the charge of contempt of Congress.[1] Petition for certiorari was duly filed [fol. 456] in the Supreme Court and on June 24, 1957, the following *per curiam* order was entered:[2]

[1] 100 U.S.App.D.C. 13, 240 F.2d 875 (1957).

[2] 354 U.S. 930 (1957).

"The petition for writ of certiorari in this case is granted. The judgment of the Court of Appeals for the District of Columbia Circuit is vacated and the case is remanded for consideration in light of *Watkins* v. *United States;* 354 U.S. 178."

The present opinion is written in obedience to the above order.[3]

The facts concerning this case are sufficiently stated in the opinion of this court dated January 3 and need not be repeated here. Also, we limit ourselves to the directions of the Supreme Court and consider only the impact of *Watkins* on the instant case, except that we have also weighed the applicability of *Sweezy* v. *New Hampshire, infra.*

The Supreme Court in *Watkins* held that the witness there was not accorded a fair opportunity to determine whether he was within his rights in refusing to answer the questions involved and therefore his conviction was invalid under the Due Process Clause of the Fifth Amendment; and that no clear understanding of the question under inquiry could be gathered from the resolution setting up the Standing Committee on Un-American Activities, from the action of that Committee in authorizing the creation of the Subcommittee before which Watkins appeared, from the statement of the chairman at the opening of the hearings at which Watkins appeared, or from the statement of the chairman in response to Watkins' protest.

At the hearing before us on remand two points are mainly relied upon by appellant: First, it is claimed that [fol. 457] the opinion of the Supreme Court in *Watkins* struck down the resolution creating the Standing Committee on Un-American Activities (hereinafter referred to as the Committee), and that prosecution based on refusal to answer questions asked by the Committee or a Subcommittee questioning thereunder must necessarily fail in that the resolution on which the indictment is based fails to meet the requirements of due process; and second,

[3] Although *Barenblatt* v. *United States, supra* note 1, was heard in this court before a division of three judges, we *sua sponte* determined to hear the case on remand *en banc.*

assuming this was not the case, that part of the opinion in *Watkins* relating to pertinency is dispositive of the present case.

As to the first point, such infirmity of the resolution as may be said to exist does not affect the indictment and, in any event, is a matter of affirmative defense. It is quite true that the Supreme Court in no uncertain terms criticised the resolution creating the Committee for lack of specificity, for uncertainty, for vagueness, and the scope of the construction accorded to the resolution as acted upon by the members of the Committee and its Subcommittees. It would serve no useful purpose to review in detail all the criticisms directed by the Supreme Court to the resolution and the construction placed thereon by the Committee and its Subcommittees as they were constituted over the fifteen years of their existence; but in the margin are contained certain of the comments thereon by the Supreme Court.[1]

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[1] "It would be difficult to imagine a less explicit authorizing resolution." 354 U.S. 178, at 202.

". . . . An excessively broad charter, like that of the House Un-American Activities Committee, places the courts in an untenable position if they are to strike a balance between the public need for a particular interrogation and the right of citizens to carry on their affairs free from unnecessary governmental interference. It is impossible in such a situation to ascertain whether any legislative purpose justified the disclosures sought and, if so, the importance of that information to the Congress in furtherance of its legislative function. The reason no court can make this critical judgment is that the House of Representatives itself has never made it. Only the legislative assembly initiating an investigation can assay the relative necessity of specific disclosures." *Id.* at 205-206.

But the Court added

"". . . . Applied to persons prosecuted under § 192 [2 U.S.C.], this raises a special problem in that the statute defines the crime as refusal to answer 'any question pertinent to the question under inquiry.' Part of the standard of criminality, therefore, is the pertinency of the questions propounded to the witness." *Id.* at 208. ". . . . It is obvious that a person compelled to make this choice is entitled to have knowledge of the subject to which the interrogation is deemed pertinent. That knowledge must be available with the same degree of explicitness and clarity that the Due Process Clause requires

[fol. 458] Against the background of its views so voiced, the Court considered, in terms presently relevant, the relationship of congressional investigating committees and the witnesses who appear before them. The opinion in *Watkins* clearly describes five criteria by which the pertinence of a question can be made clear to a witness (354 U.S. 178, 209, 211, 212, 213, 214): (1) the authorizing reso-
[fol. 459] lution, (2) opening remarks of the chairman, members, or counsel of the Committee, (3) the nature of the proceedings, (4) the questions themselves, and (5) the chairman's response to an objection on pertinency.

There are several reasons which we believe militate against the conclusion urged by appellant in this case that the resolution itself was struck down and that, consequently, the prosecution based on failure to answer questions propounded by the Subcommittee was fatally defective.

In the first place, we believe that if the Court had intended to strike down the resolution, it would have said so in so many words. It would not have left so vital an issue to inference or interpretation. The far-reaching result of such a holding would be that the Committee, established by action of the entire House of Representatives, would be rendered helpless and would not even be able to summon a witness, much less have him testify. Nothing less would be an immediate consequence. Certainly nowhere in the *Watkins* opinion does the Court use language essential to effectuate the result contended for by appellant and, on remand,

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in the expression of any element of a criminal offense. The 'vice of vagueness' must be avoided here as in all other crimes. *There are several sources that can outline the 'question under inquiry' in such a way that the rules against vagueness are satisfied. The authorizing resolution, the remarks of the chairman or members of the committee, or even the nature of the proceedings themselves, might sometimes make the topic clear.* This case demonstrates, however, that *these sources* often leave the matter in grave doubt." *Id.* at 208-209. (Emphasis added.)

This indicates to us that it is possible for the Committee itself or the nature of the proceedings themselves "to make the topic clear," *i.e.*, so to outline the question under inquiry as to satisfy the rules against vagueness. The Court found that Watkins had no such guide.

there is no such direction to us to strike down the resolution or to hold invalid the indictment brought for failure to answer questions pertinent to the subject under inquiry. In the absence of a clear expression from the Court we do not take this position.

In the second place, had the Supreme Court struck down the resolution creating the Committee the matter would have been ended, without the further, extended discussion found in *Watkins*. We cannot assume the rest of the opinion to be, nor do we read it as, mere dictum. On the contrary, it is clear the Court was familiar with the present case as it is specifically referred to in note 34 of the opinion in *Watkins*. The Court certainly knew, therefore, that Barenblatt's conviction grew out of testimony taken under the [fol. 460] same resolution. Moreover, it is reasonable to assume that, had the resolution under which both Watkins and Barenblatt were questioned been stricken in its entirety, this case would have been *reversed* on authority of *Watkins* rather than *remanded* for consideration "in light of" that opinion. We read *Watkins* as demonstrating the necessity of more than ordinary caution in upholding First Amendment rights of individuals who are summoned before committees or subcommittees which operate under resolutions infected with the vagueness criticized in *Watkins*.

We do believe that the Supreme Court was of the opinion that the vagueness of the resolution made it necessary, and only fair, that the witness be apprised of the particular matter under inquiry by the Committee or Subcommittee holding the hearings, and, on objection, of the pertinency of the questions involved in the inquiry.

Thirdly, the Supreme Court cited in *Watkins* a number of cases, both in that Court and in Courts of Appeals, bearing on convictions sustained under the same resolution.[5] There is no suggestion that those decisions were repudiated

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[5] See, among others, *Quinn* v. *United States*, 349 U.S. 155 (1955); *United States* v. *Bryan*, 339 U.S. 323 (1950); *Barsky* v. *United States*, 83 U.S.App.D.C. 127, 167 F.2d 241, *cert. denied*, 334 U.S. 843 (1948), *rehearing denied*, 339 U.S. 899 (1950); *United States* v. *Josephson*, 165 F.2d 82 (2d Cir. 1947), *cert. denied*, 333 U.S. 838, *rehearing denied*, 333 U.S. 858, *motion for leave to file second petition for rehearing denied*, 335 U.S. 899 (1948).

or that their reasoning was erroneous. One finds no intimation that the cases should have been decided by the simple process of voiding the resolution establishing the Committee. We are of clear opinion that *Watkins* did not void H. Res. 282, 75th Cong., 3d Sess., or H. Res. 5, 79th Cong., 1st Sess.[6]

Apart from our present review in light of *Watkins*, we have reconsidered the case also in light of *Sweezy* v. *New* [fol. 461] *Hampshire*, 354 U.S. 234 (1957). Appellant argues that there the Court emphasizes by analogy the fallibility of the resolution creating the Committee. Sweezy refused to answer questions in the course of an investigation by the State Attorney General acting under a resolution of the State Legislature relating to subversive activities. The Supreme Court there held that the investigation had deprived Sweezy of due process of law under the Fourteenth Amendment, and concluded that the record did not sustain the power of the State of New Hampshire to compel the disclosures that the witness refused to make. At the outset of the hearing, Sweezy had raised the question of pertinency as well as the question of violation of First Amendment rights. The Court further pointed out that there was no assurance that the legislature wanted answers to certain questions asked by the Attorney General, to whom the legislature had delegated the duty of making the investigation.

We think that *Sweezy* does not compel us to hold, under the circumstances of the instant case, that any of appellant's constitutional rights were violated.

In the *Watkins* case, having held that the resolution was not sufficiently specific, standing alone, to advise the witness of the question under inquiry, or at least having expressed doubt, the Supreme Court considered whether the statement of the chairman of the Subcommittee was sufficient to apprise Watkins of the matter under inquiry and whether, when Watkins objected to the questions on the ground of pertinency, the chairman's response was adequate to convey sufficient information on this point. The Court observed that that statement was nothing more

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[6] *Watkins*, notes 35, 36.

than a paraphrase of the resolution itself and gave Watkins insufficient information concerning the subject under inquiry. The investigation there was in connection with communist infiltration in labor and the Court found that a majority of the witnesses were not connected with labor at all, and that seven of the thirty persons whose names [fol. 462] were propounded to Watkins had no such connections. The Court wrote that the "inference becomes strong that the subject before the Subcommittee was not defined in terms of communism in labor," and concluded that the question under inquiry was not adequately revealed to Watkins when he had to decide, at his peril, whether or not to answer. The Court declared that "fundamental fairness demands that no witness be compelled to make such a determination with so little guidance."

The Watkins situation is a far cry from that of Barenblatt. The record here discloses that at the opening of the hearings before the Subcommittee on February 25, 1953, the chairman made a statement of the purpose of the inquiry,[1] the concluding part of which reads as follows:

> "*[T]he objective of this investigation is to ascertain the character, extent and objects of Communist Party activities when such activities are carried on by members of the teaching profession who are subject to the directives and discipline of the Communist Party.*" (Emphasis added.)

Comparison of this statement with the initial statement of the chairman discussed in the Watkins case, found by the Court to be insufficient, suggests a like infirmity. So regarded, we put aside the chairman's statement as a factor even though the fact that Barenblatt had prepared his statement as to his objections to the jurisdiction of the Committee (*infra*, pp. 299, *et seq*) indicates that he quite well knew the nature of the hearing.

We examine the record then from other approaches. It appears that Barenblatt was summoned to appear before the Subcommittee at 10:30 A.M. on June 28, 1954, and that

[1] The entire statement is quoted as an appendix to the opinion of this court dated January 3, 1957.

the session was called to order at 10:37 A.M. It may be presumed that Barenblatt was then present since there is no suggestion that he failed to obey the subpoena. At [fol. 463] no time during the present hearing, or in the District Court, was it claimed that Barenblatt was not present when committee counsel, that day, made his statement as to the purpose of the hearing. As a matter of fact, it is not denied even at this time that Barenblatt was then present. In addition also is the fact that Barenblatt testified that he had heard the testimony of Crowley, the first witness called.

Included in the statement of committee counsel at the June 28, 1954, hearing was the following:

> "The field covered will be in the main communism in education and the experiences and background in the party by Francis X. T. Crowley. It will deal with activities in Michigan, Boston, and in some small degree, New York."[8]

The question under inquiry was clearly indicated to the witnesses that day. From what we have said, as well as from what follows in his own testimony, it may fairly be inferred that Barenblatt was present and received the same information.

The next standard discussed by the Supreme Court is the nature of the proceedings. Barenblatt testified the same day as did Crowley, who identified him (Barenblatt) as a member of the Haldane Club of the Communist Party at the University of Michigan. Some of the other witnesses who testified were members of the Communist Party and others, including Barenblatt, were charged with being members of the Communist Party while at the University of Michigan several years before the hearings. All questions related to communist activity at the university, and it is clear that Barenblatt had knowledge that this was the subject matter being inquired into. We are of opinion that the nature of the proceedings, which Barenblatt personally observed, clearly indicated to him the question under inquiry.

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[8] 240 F.2d at 881, note 8.

[fol. 464] The next standard discussed by the Supreme Court was the nature of the questions as put.[9] Here, Barenblatt was asked specifically about his membership in the Haldane Club of the Community (sic) Party while he attended the University of Michigan and was a student of the University of Michigan Council of Arts, Sciences, and Professions. These questions, and the balance of the questions forming the basis of the indictment, viewed in the light of what the committee counsel had said and Crowley's preceding testimony, all in Barenblatt's presence, made indubitably clear to Barenblatt the nature of the subject under inquiry to which the questions were directed.

The record of the hearing, at which Barenblatt appeared and during which the questions in controversy were asked, is devoid of any objection interposed on the ground of pertinency. Indeed, every indication is that he came prepared to refuse to answer any questions of moment—pertinent or not. He appeared before the Subcommittee accompanied by counsel and armed with an eleven-page prepared, written statement entitled "Objections to Jurisdiction of the Committee on Un-American Activities and to Questions Propounded by It," objecting "not only to the jurisdiction of the committee, but also to the questions propounded by it. This objection [the statement continues] is made upon advice of counsel as to my rights as provided for in rule VII of the rules of procedure of this committee. Counsel who appear for me are Philip Wittenberg and Irving Like of 70 West 40th Street, Borough of Manhattan, New York City."

The statement can best be described as a lengthy legal brief attacking the jurisdiction of the committee to ask [fol. 465] appellant any questions or to conduct any inquiry at all, based on the First, Ninth and Tenth Amendments, the prohibition against bills of attainder, and the doctrine of separation of powers. This brief cited more than twenty Supreme Court decisions, some of which do not

[9] The Supreme Court in *Watkins* said (p. 213): "The most serious doubts as to the Subcommittee's 'question under inquiry,' however, stem from the precise questions that petitioner has been charged with refusing to answer. Under the terms of the statute, after all, it is these which must be proved pertinent."

concern the congressional power of investigation; and, in several instances, dissenting opinions were cited. Included in this statement are the following:

"1. I, Lloyd Barenblatt, having been subpenaed before the Committee on Un-American Activities, by subpena dated the 28th day of May 1954, returnable on the 28th day of June 1954, hereby respectfully object to the power and jurisdiction of this committee to inquire into—

(a) My political beliefs;

(b) My religious beliefs;

(c) Any other personal and private affairs;

(d) My associational activities.

"2. I am a private citizen engaged in work in the fields of education and research, and in writing and speaking in connection therewith. I hold no office of public honor or trust. I am not employed by any governmental department. I am not under salary or grant from any governmental department.

"3. The grounds of my objection are as follows:

"A. Any investigation into my political beliefs, my religious beliefs, any other personal and private affairs, and my associational activities, is an inquiry into personal and private affairs which is beyond the powers of this committee.

* * * * *

"D. Under our Constitution our Government is a government of limited powers, tripartite in form, consisting of the legislative, the judicial, and the executive. This separation is fundamental to the preservation of the rights of the people in order that no one department may, through its power, rise to become a despotic arbiter. This committee through this investigation into my political, associational, religious; [fol. 486] and private affairs trespassed upon the judicial department and has caused a lack of balance of power which constitutes a threat to my liberty as

an American citizen and is an unconstitutional usurpation.

* * * *

"This committee, by compelling me to leave my ordinary pursuits and to attend before it for the purpose of testifying with regard to my political beliefs, my religious beliefs, other personal and private affairs, and my associational activities, is acting as a judicial indicting and accusatory power. It is intruding into the judicial sphere and is following a practice which closely parallels the practices which resulted in bills of attainder being prohibited by our Constitution (art. I, sec. 10).

* * * *

"Upon all the grounds aforesaid I object not only to the jurisdiction of this committee, but also to the questions propounded by it. This objection is made upon the advice of counsel as to my rights as provided for in rule VII of the rules of procedure of this committee."

To indicate the length to which the Subcommittee went to indicate to Barenblatt the pertinency of the questions, even though the question of pertinency was not raised by him, we quote from the record of Hearings before the Committee on Un-American Activities, House of Representatives, 83rd Congress, 2d Session, Communist Methods of Infiltration (Education—Part 9, pp. 5813-14):

"Mr. Doyle [Representative Doyle]. Mr. Chairman, I think the record should show that at this time there are pending before the United States Congress several active bills dealing with the question of subversive activities, dealing with the question of the Communist Party, dealing with the question of the responsibility that we have as a congressional committee under Public Law 601.

"I am sure that is the record, and I would like the [fol. 467] record of this hearing of this committee to especially show it—

"Mr. Velde [Representative Velde]. Yes, I think—

"Mr. Doyle (continuing). And that this witness and these other witnesses could help us in line with our Public Law 601 responsibility to have hearings with reference to recommendations for legislation in this area under Public Law 601 in accordance therewith.

"Mr. Velde. I concur with you, Mr. Doyle, and I wish to further state that the record should show that the evidence or information contained in the files of this committee, some of them in the nature of evidence, shows clearly that the witness has information about Communist activities in the United States of America, particularly while he attended the University of Michigan.

"That information which the witness has would be very valuable to this committee and its work.

"It is the opinion of the committee, at least the Chair, that the committee has a constitutional legal right in all ways and forms and means to get the information which has been requested from the witness."

Whenever appellant was asked a question which he refused to answer, he asked permission, or attempted without permission, to read the prepared statement. That statement, which was inserted in the record of the hearing at which Barenblatt testified, in no way indicates that he had any doubt as to the subject under inquiry or as to the pertinency of the questions asked. On the contrary, everything points to Barenblatt's knowledge of the subject and his knowledge of the pertinency of the questions asked. Refusal to answer was based on the broad grounds above set forth. He specifically disclaimed invoking the Fifth Amendment.

Applying the *Watkins* ruling to this case, it will be seen that there is decisive distinction between the two. In the present case the subject of the investigation was stated to be Communist Party activities within the field [fol. 468] of education. There was no attempt made to proceed with the hearing under a mere re-hash of the resolution creating the Committee. Here was far more than "a very general sketch of the past efforts of the Committee," as the Supreme Court said in *Watkins*.

While Watkins testified freely as to his own activities, he simply declined to identify members who he believed had perhaps innocently become members of or were closely connected with the Communist Party and who had subsequently withdrawn therefrom. Barenblatt, however, declined to answer either as to his own activities or the activities in general of the Haldane Club. He was represented by counsel, and presented written objections based generally on the jurisdiction of the Committee. His objections went to questions about his own activities and acts and were on specific grounds. These objections are sufficiently described in our previous opinion.

We have considered the other questions raised by appellant on remand and which he says are material here in the light of *Watkins*. We think such other matters are sufficiently answered by the original opinion of this court, which by reference, for present purposes, is incorporated herein.

We are of opinion that, under the standards laid down for us by the Supreme Court, Barenblatt was made fully aware of the subject under inquiry and was in a position to judge the pertinency of the questions relating to that subject. We are further of the opinion that the questions were in fact relevant and pertinent to that subject.

In accordance with the direction of the Supreme Court, we have carefully considered *Watkins* and its impact on *Barenblatt*. Taking account of all circumstances as noted, and believing the cases are distinguishable as indicated, we affirm the judgment of conviction.

Affirmed.

[fol. 469] EDGERTON, *Chief Judge*, whom BAZELON, *Circuit Judge*, joins, *dissenting*: A unanimous panel of this court decided that "the opinion of the Supreme Court in Watkins v. United States . . . requires reversal" of the conviction of Singer.[1] Barenblatt, like Singer, was convicted of refusing to answer questions of a subcommittee of the Un-

[1] *Singer* v. *United States*, —— U.S.App.D.C. ——, 247 F.2d 535; reversing *Singer* v. *United States*, 100 U.S.App.D.C. 260, 244 F.2d 349, which had affirmed *Singer* v. *United States*, 139 F.Supp. 847 (D.C.D.C.).

American Activities Committee investigating Communists in the field of education. There is no difference pertinent to *Watkins* between Singer's case and Barenblatt's. I think this court errs in overruling our *Singer* decision.

I understand *Watkins* to hold that the Committee on Un-American Activities had no authority to compel testimony because it had no definite assignment from Congress. The Supreme Court said: "[W]hen First Amendment rights are threatened, the delegation of power to the Committee must be clearly revealed in its charter. [354 U.S. at p. 198] . . . An essential premise in this situation is that the House or Senate shall have instructed the Committee members on what they are to do with the power delegated to them. . . . [T]he responsibility of the Congress . . . to insure that compulsory process is used only in furtherance of a legislative purpose . . . requires that the instructions to an investigating committee spell out that group's jurisdiction and purpose with sufficient particularity. [p. 201] . . . It would be difficult to imagine a less explicit authorizing resolution. [p. 202] . . . Combining the language of the resolution with the construction it has been given, it is evident that the preliminary control of the Committee exercised by the House of Representatives is slight or non-existent. No one could reasonably deduce from the charter the kind of investigation that the Committee was directed to make. [pp. 203-4] . . . The Com- [fol. 470] mittee is allowed, in essence, to define its own authority . . . [This] can lead to ruthless exposure of private lives in order to gather data that is neither desired by the Congress nor useful to it. . . . Protected freedoms should not be placed in danger in the absence of a clear determination by the House or the Senate that a particular inquiry is justified by a specific legislative need. . . . An excessively broad charter, like that of the House Un-American Activities Committee, places the courts in an untenable position . . . . [p. 205] It is impossible in such a situation to ascertain whether any legislative purpose justifies the disclosures sought . . . . The reason no court can make this critical judgment is that the House of Representatives itself has never made it. . . . Plainly these committees are restricted to the missions delegated to them, *i.e.*, to acquire

certain data to be used by the House or the Senate in coping with a problem that falls within its legislative sphere. No witness can be compelled to make disclosures on matters outside that area." [p. 206]

In summary: (1) The "instructions to an investigating committee [must] spell out that group's jurisdiction and purpose with sufficient particularity." (2) "It would be difficult to imagine a less explicit authorizing resolution . . . . No one could reasonably deduce from the charter the kind of investigation that the Committee was directed to make." (3) "No witness can be compelled to make disclosures on matters outside that area." Since Congress did not define that area, there can be no proof that the Committee's questions were within it. It follows that the defendant must be acquitted.

Even if, contrary to my clear understanding of *Watkins*, Congress did "with sufficient particularity" authorize the Committee to investigate something, it by no means follows that Congress authorized the Committee to investigate Communists in the field of education. Four Justices of the Supreme Court recently said: "It is particularly [fol. 471] important that the exercise of the power of compulsory process be carefully circumscribed when the investigative process tends to impinge upon such highly sensitive areas as freedom of speech or press, freedom of political association, and freedom of communication of ideas, particularly in the academic community. . . . [T]he areas of academic freedom and political expression" are "areas in which government should be extremely reticent to tread." Two other Justices said in the same case: "These pages need not be burdened with proof, based on the testimony of a cloud of impressive witnesses, of the dependence of a free society on free universities. This means the exclusion of governmental intervention in the intellectual life of a university." *Sweezy* v. *New Hampshire*, 354 U.S. 234, 245, 250, 262. The Court there held that Sweezy, a university teacher, could not constitutionally be required to answer certain questions about his political activities and connections. Barenblatt was a university teacher. He was convicted because he would not answer certain questions about his political activities and connections. Though the

two cases are not identical and *Sweezy* does not prove that Barenblatt's conviction violates his constitutional rights, it does show that this conviction raises serious constitutional questions. Delegation of power to a congressional committee must be construed narrowly when a narrow construction avoids serious constitutional questions. *United States* v. *Rumely*, 345 U.S. 41. The words of the Committee's charter, "investigations of . . . un-American propaganda activities", need not and therefore should not be interpreted to authorize the Committee to select for investigation political activities and connections of university teachers. We must suppose that if Congress had intended to authorize such an investigation it would have done so explicitly.

We need not consider whether the Committee's questions to Barenblatt were pertinent to an investigation of Communists, in the field of education. The force of the [fol. 472] Court's decision in *Watkins* that the Committee had no definite assignment, and therefore no authority to compel testimony, is not destroyed by the Court's decision that the questions Watkins refused to answer were not clearly pertinent to the investigation in which the Committee was then engaged. "[W]here there are two grounds, upon either of which an appellate court may rest its decision, and it adopts both, 'the ruling on neither is *obiter*, but each is the judgment of the court and of equal validity with the other.'" *United States* v. *Title Ins. & Tr. Co.*, 265 U.S. 472, 486. And even if the Supreme Court's demonstration that the Committee on Un-American Activities had no authority to compel testimony were *obiter*, this court should defer to it.

Although, on examination, the answer to a question is plain, higher courts commonly require lower courts to make the examination and decide the question in the first instance. The Supreme Court followed the usual practice in this case.

FAHY, *Circuit Judge*, with whom WASHINGTON, *Circuit Judge*, joins, *dissenting*: Reading *Sweezy* in the light of *Rumely* and *Watkins*, I think the Committee could not proceed to investigate the field of education—at least with the use of compulsory process, under the sanction of contempt—without a more specific authorization than it had

been given, and that therefore the conviction must be reversed. It is unnecessary here to go into the question whether *Watkins* holds the Committee to be without authority to compel testimony on any subject of inquiry.

[fol. 473] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13,327—October Term, 1957.

Criminal 1154-54

LLOYD BARENBLATT, Appellant,

v.

UNITED STATES OF AMERICA, Appellee.

On Reargument of Appeal from the United States District Court for the District of Columbia Pursuant to Remand by the Supreme Court of the United States.

Before: Edgerton, Chief Judge, and Prettyman, Wilbur K. Miller, Bazelon, Fahy, Washington, Danaher, Bastian and Burger, Circuit Judges.

JUDGMENT—January 16, 1958

Pursuant to the judgment of the Supreme Court of the United States dated June 24, 1957, this case came on to be reheard en banc on the record from the United States District Court for the District of Columbia and on the supplemental briefs and memoranda of the parties, and was reargued by counsel.

On Consideration Whereof, It is ordered and adjudged by this Court that the judgment of the said District Court appealed from in this case be, and it is hereby, affirmed.

Dated: January 16, 1958.

Per Circuit Judge Bastian.

Separate dissenting opinion by Chief Judge Edgerton, with whom Circuit Judge Bazelon joins.

Separate dissenting opinion by Circuit Judge Fahy, with whom Circuit Judge Washington joins.

[fol. 474] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 475] SUPREME COURT OF THE UNITED STATES

No. 787, October Term, 1957

[Title omitted]

ORDER GRANTING MOTION TO USE THE RECORD ETC.—April 14, 1958

On Consideration of the motion to use record in Barenblatt v. United States, No. 742, October Term, 1956, in this case,

It Is Ordered by this Court that the said motion be, and the same is hereby, granted.

Mr. Justice Burton took no part in the consideration or decision of this motion.

[fol. 477] SUPREME COURT OF THE UNITED STATES

No. 787, October Term, 1957

[Title omitted]

ORDER ALLOWING CERTIORARI—April 14, 1958

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the District of Columbia Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Burton took no part in the consideration or decision of this application.